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Rules of Governmental Agencies

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ILLINOIS REGISTER

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The printing schedule for the quarterly and annual indices are as follows:

Issue 16 - Dated April 16, 1999 Data Through March 31, 1999
Issue 29 - Dated July 16, 1999 Data Through June 30, 1999
Issue 42 - Dated October 15, 1999 Data Through September 30, 1999
Issue 3 - Dated January 21, 2000 Data Through December 31, 1999 (Annual)

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
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Issue 6	January 25	February 5	Issue 33	August 2	August 13
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Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.

** Tuesday following a state holiday.

*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

Printed by authority of the State of Illinois
September 1999 - 675 - GA-439

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Animal Disease Laboratories Act2) Code Citation: 8 Ill. Adm. Code 1103) Section Number: Proposed Action:

110.70 Amended

110.80 Amended

110.90 Amended

4) Statutory Authority: Animal Disease Laboratories Act (510 ILCS 10)

5) A Complete Description of the Subjects and Issues Involved: Fees are being increased to more realistically reflect the actual costs in conducting certain tests and examinations. These changes will bring the Department's laboratories in line with the fees being charged by the University of Illinois Diagnostic Laboratory for the same tests. Fees being increased are for complete blood counts, leukocyte, hemoglobin, hematocrit, hematology differential, blood compatibility crossmatch, bone marrow examination, routine chemistry and microscopic examination, cytology examination, histopathology biopsy, campylobacter culture, listeria culture, and mycoplasma testing. A fee is also being established for immunohistochemistry testing.

6) Will this proposed rule replace an emergency rule in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this proposed amendment contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 28, 1999 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 1999. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Veterinarians and persons wishing to utilize the Department's laboratory services.

B) Reporting, bookkeeping or other procedures required for compliance: Use of laboratory services is voluntary.

C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 1999The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER I: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 110

ANIMAL DISEASE LABORATORIES ACT

Section

110.10	Definitions
110.20	Submitting Specimens
110.30	Payment For Laboratory Services
110.40	Tests Not Covered by Fee Schedule
110.50	Minimum Fees
110.60	Euthanasia Fees
110.70	Clinical Pathology Fees
110.80	Histopathology Fees
110.90	Microbiology Fees
110.100	Parasitology Fees
110.110	Toxicology Fees
110.120	Miscellaneous Fees
110.130	Meats Chemistry Fees
110.140	Liquor Control Commission Fees

AUTHORITY: Implementing and authorized by the Animal Disease Laboratories Act [510 ILCS 10].

SOURCE: Adopted and codified at 8 Ill. Reg. 9047, effective July 1, 1984; amended at 9 Ill. Reg. 4471, effective March 22, 1985; amended at 9 Ill. Reg. 19638, effective January 1, 1986; amended at 10 Ill. Reg. 9733, effective May 21, 1986; amended at 11 Ill. Reg. 10163, effective May 15, 1987; amended at 12 Ill. Reg. 3379, effective January 25, 1988; amended at 13 Ill. Reg. 3617, effective April 15, 1989; amended at 14 Ill. Reg. 1907, effective January 19, 1990; amended at 14 Ill. Reg. 3416, effective March 1, 1990; amended at 14 Ill. Reg. 15304, effective September 10, 1990; amended at 16 Ill. Reg. 11416, effective July 1, 1992; amended at 18 Ill. Reg. 1825, effective February 1, 1994; amended at 18 Ill. Reg. 17433, effective December 1, 1994; amended at 20 Ill. Reg. 255, effective January 1, 1996; amended at 20 Ill. Reg. 16176, effective January 1, 1997; amended at 21 Ill. Reg. 17034, effective January 1, 1998; amended at 23 Ill. Reg. 386, effective January 1, 1999; amended at 23 Ill. Reg. 9754, effective August 9, 1999; amended at _____ Ill. Reg. _____, effective _____.

Section 110.70 Clinical Pathology Fees

The following fees apply to those specimens submitted where a necropsy is not involved, with a minimum total fee of \$5.00:

a) Hematology:

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NOTICE OF PROPOSED AMENDMENTS

1) Complete Blood Count (RBC, Hb, Ht, WBC, Diff.).....	\$ 12.00±00 C, G
2) Erythrocyte.....	3.00 C, G
3) Leukocyte.....	5.00±00 C, G
4) Bendixen Key.....	5.00 C, G
5) Hemoglobin.....	5.00±00 C, G
6) Hematocrit.....	5.00±00 C, G
7) Differential.....	5.00±00 C, G
8) Eosinophil Count.....	5.00 C
9) Stippling.....	3.00 C, G
10) Fibrinogen.....	3.00 C, G
11) Erythrocyte Indices.....	3.00 C, G
12) Shorr Stain (canine distemper).....	5.00 C, G
13) Hematoxylin-Acridine Orange.....	5.00 C, G
14) Erythrocyte Parasites--Wright's Giemsa Stain.....	5.00 C, G
15) Erythrocyte Sedimentation Rate.....	15.00±00 C
16) Blood Compatibility Crossmatch.....	3.00 C
17) Pandey (Qualitative Protein).....	20.00 C
18) Bone Marrow, Collection and Examination.....	12.00±00 C, G
19) Bone Marrow Examination.....	3.00 C, G
20) Microfilaria.....	3.00 C, G
b) Urinalysis	
1) Routine Chemistry and Microscopic Examination....	9.00±00 C, G
2) Urine Urobilinogen, Qualitative.....	3.00 C
3) Urine Na.....	3.00 C
4) Urine K.....	3.00 C
c) Enzymology	
1) SGOT (serum glutamic oxalacetic transaminase).....	3.00 C
2) SGPT (serum glutamic pyruvic transaminase).....	3.00 C
3) LDH (lactic dehydrogenase).....	3.00 C
4) Alkaline Phosphatase.....	3.00 C
5) Lipase.....	5.00 C
6) Amylase.....	5.00 C
7) Sorbitol dehydrogenase.....	5.00 C
8) Arginase.....	5.00 C
d) Chemistry	
1) Bilirubin--Total and Direct.....	10.00 C
2) Total Only.....	5.00 C
3) Electrolytes (Ca, P, Mg, K, and Na).....	12.00 C
4) Calcium.....	3.00 C, G
5) Chloride.....	3.00 C
6) Cholesterol, Total.....	3.00 C
7) Creatinine.....	3.00 C
8) Glucose.....	3.00 C, G
9) Phosphorus.....	3.00 C, G
10) Lactic Acid.....	3.00 C
11) Potassium.....	3.00 C

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- 11) Total Protein..... 3.00 C, G
- 12) Albumin..... 3.00 C, G
- 13) Sodium..... 3.00 C, G
- 14) Blood Urea Nitrogen..... 3.00 C, G
- 15) Uric Acid..... 3.00 C, G
- 16) Zinc..... 3.00 C, G
- 17) Magnesium..... 3.00 C, G
- 18) Copper..... 3.00 C, G
- 19) Iron..... 3.00 C, G
- e) Other Tests
- 1) Calculi Analysis, Qualitative..... 10.00 C, G
- 2) Semen Examination..... 10.00 C, G
- 3) Cytology Transudate/Exudate
Cytology Examination Only..... 18.00±±±± C, G
- Complete (i.e., Count, SG, TP, Sugar, Culture)..... 20.00 C, G
- 4) Spinal Fluid (Cytology, SG, TP)..... 10.00 C, G

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 110.80 Histopathology Fees

a) The following are the fees for histopathology:

- 1) Biopsy..... 25.00±±±± C, G
- 2) Multiple Tissues (2-4 tissues)..... 35.00±±±± C, G
- 3) Immunohistochemistry testing..... 10.00 C, G
- b) In the event some specialty testing situation is requested by the person requesting the laboratory services, other fixatives are available. Please consult the respective diagnostic laboratory for the specific fee.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 110.90 Microbiology Fees

The following are the fees for microbiology:

- a) Bacteriology, Mycoplasma and Fungi
- 1) Aerobic or anaerobic culture without sensitivity testing..... 10.00 C, G
- 2) Aerobic culture with sensitivity testing..... 15.00 C, G
- 3) Clostridium perfringens serotyping..... 5.00 G
- 4) Milk samples for mastitis evaluation
1-4 specimens..... 15.00 C, G
(additional specimens, each at)..... 2.00 C, G
- Wisconsin mastitis test
1-10 specimens, each..... 2.00 C

- (additional specimens, each at)..... 1.00 C
- 5) Leptospirosis--6 serotypes
Microtiter test-per specimen..... 2.00 C, G
- 6) Canine brucellosis--per specimen..... 5.00 C, G
- 7) Fluorescent Antibody Test (FA)..... 10.00 C, G
- 8) Escherichia coli serotyping..... 3.00 C, G
- 9) Campylobacter (culture)..... 6.00±±±± C, G
- 10) Salmonella isolation using enrichment media..... 6.00 C, G
- 11) Hemophilus (culture)..... 3.00 C, G
- 12) Nasal Swabs--Bordetella..... 2.00 C, G
- 13) Listeria (culture)..... 6.00±±±± C, G
- 14) Hemophilus equigenitalis (CEM)..... 4.00 C, G
- 15) Spirochetes (swine dysentery--Treponema sp.)..... 3.00 C, G
- 16) Johne's Bacillus (first specimen)..... 7.00 C, G
(each additional specimen)..... 4.00 C, G
- 17) Prepare and Supply Transport Media (per tube)..... 1.00 C, G
- 18) Return culture for bacterin production per organism..... 2.00 C, G
- 19) Mycology Testing..... 3.00 C, G
- 20) Microscopic examination..... 3.00 C, G
- 21) Mycoplasma Testing..... 10.00±±±± C, G
- 22) E. Coli or Metritis (1-4 specimens)..... 2.00 C, G
(each additional specimen)..... 1.00 C, G
- 23) Trichomonas transport media..... 4.00 C, G
- b) Virology
- 1) Electron Microscopy--fecal..... 15.00 G
- 2) Pseudorabies Serology (positive or negative)..... no charge C, G
Pseudorabies Serology Out-of-State..... 3.00 C, G
Pseudorabies Serology (positive or negative) and end titer..... 3.00 C, G
Pseudorabies Serology (request for screen at dilution of 1:2)..... 3.00 C, G
- 3) Pseudorabies Latex Agglutination..... 3.00 C, G
- 4) Fluorescent Antibody Test (each disease)..... 10.00 C, G
- 5) Rabies..... 5.00 C, G
Virus Isolation in Cell Culture (1 specimen)..... 15.00 C, G
Each additional specimen..... 10.00 C, G
- 6) Viral Serology (each disease) (1-5 specimens, each)..... 3.00 C, G
(Each additional specimen)..... 1.00 C, G
- 7) Feline Leukemia Virus..... 10.00 C
- 8) Peline Infectious Peritonitis (F.I.P.)..... 5.00 C
- 9) Canine parvo-virus (ELISA) fecal..... 5.00 C, G
- 10) Canine parvo-virus serum..... 5.00 C, G
- 11) Canine distemper on serum..... 5.00 C
- 12) Rotavirus on fecal..... 10.00 C
- 13) Semen testing (export)..... 10.00 C

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 14) Swine enterovirus (8 serotypes)..... 12.00 C
- 15) FeLV-FeLT..... 15.00 C
- 16) Porcine fetal fluid IgG..... 3.00 G
- 17) Feline lentivirus (FeLT)..... 10.00 C
- 18) Encephalomyocarditis (1-5 specimens, each)..... 3.00 C, G
(Each additional specimen)..... 1.00 C, G
- 19) PRRS (screening 1:20)..... 2.00 G
(Each additional sample)..... 1.00 C, G
- c) Chlamydia Isolation in Cell Culture..... 4.00 C, G
- d) Miscellaneous serology..... 15.00 C, G
 - 1) Toxoplasmosis (first sample)..... 5.00 C
(Each additional sample)..... 2.50 C
 - 2) EIA-AGID..... 10.00 S
 - 3) Mare Immunological Pregnancy Test (35-60 days post-service)..... 15.00 C
 - 4) Aleutian Disease-Mink (immunoelectrophoresis)..... .20 S
 - 5) Out-of-State brucellosis serology..... .50 C, G, S
 - 6) Brucellosis testing other than bovine, porcine and canine..... .50 C, G, S
 - 7) Bluetongue (1-5 specimens, each)..... 3.00 C
(Each additional specimen)..... 2.00 C
 - 8) Bovine leukosis (BIV-AGID) (1-5 specimens, each)..... 3.00 C, S
(Each additional specimen)..... 1.00 C, S
 - 9) Vesicular stomatitis (1-5 samples each)..... 3.00 C
(Each additional sample)..... 2.00 C
 - 10) Complement Fixation Serology (1-5 specimens, each)..... 3.00 C
(Each additional specimen)..... 1.00 C
Note: The Complement Fixation Serology tests include testing for anaplasmosis, and chlamydia.
 - 11) Johne's ELISA 1-10 specimens, each..... 10.00 C
 - 11) or more specimens, each..... 5.00 C
 - 12) Actinobacillus pleuropneumoniae per serotype..... 1.00 G
 - 13) Mycoplasma hyopneumoniae..... 3.00 G
 - 14) Caprine Arthritis Encephalitis (CAE)..... 3.00 C, G
first specimen..... 3.00 C, G
each additional specimen..... 1.00 C, G
 - 15) Bovine leukemia virus ELISA (1-5 specimens, each)..... 5.00 C
each additional specimen..... 3.00 C

(Source: Amended at _____ 111. Reg. _____, effective _____)

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Diseased Animals
- 2) Code Citation: 8 Ill. Adm. Code 85
- 3) Section Number: 85.5
Proposed Action: Amended
- 4) Statutory Authority: Illinois Diseased Animals Act [510 ILCS 50]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 85].
- 5) A Complete Description of the Subjects and Issues Involved: In Section 85.5, the Department is clarifying the definition of "exposed to" to exclude animals under two years of age that have been exposed to Johne's disease from the testing requirement. Because of the nature of the disease and the current testing procedures, it is not possible to get an accurate test on these types of animals as they are not exhibiting symptoms or measurable antibodies at that age.
- In Section 85.120, the Department is proposing to adopt the May 14, 1999 amendment to the Cervid Brucellosis Uniform Methods and Rules. The amendment defines test-eligible animals as all cervidae 1 year of age or older. The current definition is 6 months of age and older.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the Illinois Register. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 28, 1999 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 1999. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Farmers, livestock producers, veterinarians, public stockyards, auction markets, marketing centers, exhibitors.
- B) Reporting, bookkeeping or other procedures required for compliance: The removal of the testing requirement for Johnes' exposed animals under two years of age will ease an unnecessary burden from Illinois livestock producers as these animals are not considered to be a threat to spread the disease, and the testing results for these types of animals is unreliable. The raising of the test-eligible age for cervids will also save the producers testing costs.

The change in the definition of "exposed to" will make it easier for livestock producers with Johnes' disease to move animals not considered to be a threat for the disease as they will not be restricted in any manner.

- C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER 1: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 85

DISEASED ANIMALS

Section	Definitions
85.5	Incorporation by Reference
85.7	Reportable Diseases
85.10	Contagious or Infectious Diseases
85.12	Truck Cleaning and Disinfection
85.15	Disposal of Sick, Diseased, or Crippled Animals at Stockyards, Auction Markets, or Marketing Centers
85.20	Sale of Livestock Quarantined Because of Disease
85.25	Identification Ear Tags for Livestock
85.30	Livestock for Immediate Slaughter Not to be Diverted En Route
85.35	Anthrax
85.40	Goats
85.45	Scrapie in Sheep and Goats
85.50	Bluetongue
85.55	Sheep Foot Rot (Repealed)
85.60	Cattle Scabies
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85.70	Diseased Animals
85.80	Copy of Health Certificate Shall Be Furnished
85.85	Requests for Permits
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85.100	Obligation of Transportation Company and Truck Operators
85.105	Additional Requirements on Cattle From Designated States
85.110	Salmonella enteritidis serotype enteritidis
85.115	Cervidae
85.120	Ratites
85.125	Vesicular Stomatitis
85.130	Requirements for Establishing and Maintaining a Herd or Flock Under the Voluntary Paratuberculosis (Johnes's disease) Certification Program

AUTHORITY: Implementing and authorized by the Illinois Diseased Animals Act [510 ILCS 501]; Section 6 of the Illinois Bovine Brucellosis Eradication Act [510 ILCS 30/6]; Livestock Auction Market Law [225 ILCS 640]; and Equine Infectious Anemia Control Act [510 ILCS 65].

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Regulations Relating to Diseased Animals, filed January 17, 1972, effective January 27, 1972; filed August 19, 1975, effective August 29, 1975; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 12, effective June 15, 1978; amended at 3 Ill. Reg. 33, p. 337, effective August 17, 1979; amended at 5 Ill. Reg. 724, effective January 2, 1981; codified at 5 Ill. Reg. 10456; amended at 7 Ill. Reg. 1746, effective January 28, 1983; amended at 8 Ill. Reg. 5925, effective April 23, 1984; amended at 9 Ill. Reg. 4489, effective March 22, 1985; amended at 9 Ill. Reg. 18411, effective November 19, 1985; amended at 10 Ill. Reg. 20464, effective January 1, 1987; amended at 12 Ill. Reg. 8283, effective May 2, 1988; amended at 13 Ill. Reg. 3642, effective March 13, 1989; amended at 14 Ill. Reg. 1919, effective January 19, 1990; amended at 14 Ill. Reg. 15313, effective September 10, 1990; amended at 16 Ill. Reg. 11756, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 14052, effective August 16, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 1850, effective January 24, 1994; emergency amendment at 19 Ill. Reg. 10734, effective July 10, 1995, for a maximum of 150 days; emergency expired December 17, 1995; amended at 20 Ill. Reg. 276, effective January 1, 1996; emergency amendment at 20 Ill. Reg. 6581, effective April 30, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13039, effective September 25, 1996; amended at 21 Ill. Reg. 17049, effective January 1, 1998; amended at 23 Ill. Reg. 411, effective January 1, 1999; amended at 23 Ill. Reg. 7862, effective July 1, 1999; amended at _____ Ill. Reg. _____, effective _____.

Section 85.5 Definitions

Definitions for the rules of this Part are located in the general definitions Section (8 Ill. Adm. Code 20.1) and apply to the rules of this Part. The following definitions shall also apply to the rules of this Part:

"Accredited veterinarian" means a veterinarian who is licensed by the state in which he practices, is approved by the animal health authority of that state, and is accredited by the United States Department of Agriculture (9 CFR 160, 161 and 162; 1999).

"Exposed to" means an animal that has come in contact with another animal or an environment that is capable of transmitting a contagious, infectious or reportable disease. An animal will no longer be considered as "exposed to" when it is beyond the standard incubation time for the disease and the animal has been tested negative for the specific disease or there is no evidence that the animal is contagious, except for animals exposed to John's disease. Animals more than two years of age originating from a herd where John's disease has been diagnosed will be considered no longer "exposed to" with a negative test. The negative test must have been conducted within 30 days prior to the sale or movement. No restrictions or test is required for animals under two years of age.

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

"Recognized slaughtering center" means an establishment where slaughtering is conducted under Federal or State inspection.

(Source: Amended at _____ Ill. Reg. _____, effective _____, amended at _____ Ill. Reg. _____, effective _____.)

Section 85.120 Cervidae

- a) Elk entering Illinois shall be negative to a brucellosis card test or PCFRA test conducted within 60 days on all animals 6 months of age and over.
 - b) Certified brucellosis-free cervid herds shall be established and maintained in accordance with the Brucellosis Uniform Methods and Rules as approved by the United States Animal Health Association (P.O. Box 4227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228; 1997, as amended May 14, 1999) and the United States Department of Agriculture.
 - c) All cervidae entering Illinois must also be in compliance with the Illinois Wildlife Code (520 ILCS 5).
 - d) All cervidae entering Illinois must be accompanied by a permit from the Department and Certificate of Veterinary Inspection that:
 - 1) has been issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;
 - 2) is approved by the Animal Health Official of the state of origin;
 - 3) shows that the cervidae are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereto;
 - 4) shows that the cervidae are not originating from a herd under quarantine for any contagious, infectious or communicable disease;
 - 5) lists the cervid's unique individual identification (approved ear tag, tattoo or microchip);
 - 6) shows the permit obtained from the Department:
- A) Applicant for permit shall furnish the following information to the Department:
- i) Name and post office mailing address of Illinois destination;
 - ii) Name and post office mailing address of consignor; and
 - iii) Number of cervidae in shipment.
- B) Grounds for refusal to issue permit are:
- i) Violation of the Act or this Part;
 - ii) Presence of a disease that might endanger the Illinois livestock industry;
 - iii) Refusal to provide required information for the permit.
 - C) Permits will be issued by telephoning or writing the Department.

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NOTICE OF PROPOSED AMENDMENTS

- e) Chronic wasting disease (CWD). Any cervid dying from an unknown cause and that has exhibited a neurological disorder must have its brain removed for CWD evaluation. Any cervid exhibiting symptoms of CWD must be kept separate and apart from other members of the herd and will be quarantined until the animal is either destroyed or determined not to have CWD. Animals quarantined for CWD will be subject to periodic inspection by Department personnel.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT(S)

- 1) Heading of the Part: Illinois Bovidae and Cervidae Tuberculosis Eradication Act
- 2) Code Citation: 8 Ill. Adm. Code 80
- 3) Section Number: Proposed Action:
 80.5 New Section
 80.10 Amended
 80.70 New Section
 80.80 New Section
 80.110 Amended
 80.120 Amended
 80.130 Amended
 80.140 Amended
- 4) Statutory Authority: Illinois Bovidae and Cervidae Tuberculosis Eradication Act (510 ILCS 35)
- 5) A Complete Description of the Subjects and Issues Involved: The Department is moving the references to documents incorporated by reference under these regulations to a single Section as suggested by JCAR. Testing requirements and permits for cattle or bison originating from non-accredited free states are being established. There are currently five states (California, Michigan, New Mexico, Pennsylvania and Texas) that are not accredited free.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 28, 1999 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
 Department of Agriculture

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State Fairgrounds, P.O. Box 19281
 Springfield IL 62794-9281
 Telephone: 217/785-5713
 Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing please mail no later than October 22, 1999. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Bovidae and cervidae producers.
- B) Reporting, bookkeeping or other procedures required for compliance: No adverse impact on Illinois producers is anticipated as the tests will be required prior to entry into Illinois, and there is no cost for a permit.
- C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER I: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
 (EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 80

ILLINOIS BOVIDAE AND CERVIDAE TUBERCULOSIS BRADICATION ACT

Section

- 80.5 Definitions
- 80.10 Requirements for Illinois Tuberculosis-Free Accredited Cattle and Bison Herds
- 80.20 When Indemnity Will Be Paid on Tests
- 80.30 Herds Quarantined Because of Suspected Tuberculosis Infection
- 80.40 Identification Tags Not To Be Removed
- 80.50 Infected Herd Depopulation (Repealed)
- 80.60 Cattle for Immediate Slaughter (Repealed)
- 80.70 Feeding or Grazing Cattle from Non-Accredited Tuberculosis Free States (Repealed)
- 80.80 Female Cattle--Beef Breeds--18 Months and Over from Non-Accredited Tuberculosis Free Areas (Repealed)
- 80.90 Sale of Quarantined Feeding or Grazing Cattle (Repealed)
- 80.100 Release of Feeding or Grazing Cattle from Quarantine (Repealed)
- 80.110 Dairy or Beef Cattle, Bison or Steers
- 80.120 Tuberculin Tests
- 80.130 Establishing and Maintaining Accredited Tuberculosis-Free Goat Herds
- 80.140 Cervidae

AUTHORITY: Implementing and authorized by the Illinois Bovidae and Cervidae Tuberculosis Bradication Act [510 ILCS 35].

SOURCE: Regulations Relating to Bovine Tuberculosis, filed January 17, 1972, effective January 27, 1972; filed June 21, 1976, effective July 1, 1976; filed December 29, 1976, effective January 8, 1977; amended at 2 Ill. Reg. 24, p. 1, effective June 15, 1978; codified at 5 Ill. Reg. 10455; amended at 7 Ill. Reg. 1742, effective January 28, 1983; amended at 8 Ill. Reg. 17809, effective October 1, 1984; amended at 9 Ill. Reg. 4503, effective March 22, 1985; amended at 9 Ill. Reg. 18432, effective November 19, 1985; emergency amendment at 11 Ill. Reg. 5326, effective March 13, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10183, effective May 15, 1987; amended at 12 Ill. Reg. 8295, effective May 2, 1988; amended at 13 Ill. Reg. 3676, effective March 13, 1989; amended at 14 Ill. Reg. 1931, effective January 19, 1990; amended at 21 Ill. Reg. 17070, effective January 1, 1998; amended at 23 Ill. Reg. 428, effective January 1, 1999; amended at 23 Ill. Reg. 9775, effective August 9, 1999; amended at ____ Ill. Reg. _____, effective _____.

Section 80.5 Definitions

"Accredited Tuberculosis Free State" means any state recognized as an Accredited Tuberculosis Free State as defined under the Bovine Tuberculosis Eradication Uniform Methods and Rules.

"Bovine Tuberculosis Eradication Uniform Methods and Rules" (June 1997) refers to the document approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6524 Lakeside Avenue, Richmond, Virginia 23228-0176) and the United States Department of Agriculture. This incorporation by reference does not include any future editions or amendments beyond the date specified.

"Uniform Methods and Rules for Tuberculosis Eradication in Cervidae" (effective July 15, 1994 and including 1996 amendments and Federal Register, Vol. 63, No. 35, February 23, 1998, pages 8837-8840) refers to the document as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6524 Lakeside Avenue, Richmond, Virginia 23228) and/or the United States Department of Agriculture. This incorporation by reference does not include any future editions or amendments beyond the date specified.

(Source: Added at _____ Ill. Reg. _____, effective _____)

Section 80.10 Requirements for Illinois Tuberculosis-Free Accredited Cattle and Bison Herds

A cattle or bison herd qualifies as a tuberculosis-free accredited herd when it meets the requirements of the Bovine Tuberculosis Eradication Uniform Methods and Rules (June 1997) for such herds as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6524 Lakeside Avenue, Richmond, Virginia 23228-0176) and the United States Department of Agriculture, Animal and Plant Health Inspection Service for the establishment and maintenance of a tuberculosis-free accredited herd of cattle or bison. This incorporation by reference does not include any future amendments or editions beyond the date specified.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 80.70 Feeding or Grazing Cattle from Non-Accredited Tuberculosis Free States (Repeated)

All steers and spayed heifers and calves of the beef breeds under 6 months of age from Non-Accredited Tuberculosis Free States may enter Illinois when accompanied by an official interstate health certificate or by a permit from the Department.
Heifers, untested, of the beef breeds over 6 months of age and under 18 months for feeding and grazing purposes only may enter Illinois when accompanied by an

official interstate health certificate and a permit from the Department.

(Source: Old Section repealed at 8 Ill. Reg. 17809, effective October 1, 1984; new Section added at _____ Ill. Reg. _____, effective _____)

Section 80.80 Female Cattle--Beef Breeds--18 Months and Over from Non-Accredited Tuberculosis Free Areas (Repeated)

Female cattle of the beef breeds 18 months of age and over, for feeding or grazing purposes only, may enter Illinois from Non-Accredited Tuberculosis Free States, or may be shipped from public stockyards within the State, if they are accompanied by an official interstate health certificate showing negative tuberculin test conducted within 60 days prior to entry.

(Source: Old Section repealed at 8 Ill. Reg. 17809, effective October 1, 1984; new Section added at _____ Ill. Reg. _____, effective _____)

Section 80.110 Dairy or Beef Cattle, Bison or Steers

All dairy or beef cattle or steers entering or being exhibited in the State of Illinois from Accredited Tuberculosis Free States as defined under the Bovine Tuberculosis Eradication Uniform Methods and Rules (June 1997) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6524 Lakeside Avenue, Richmond, Virginia 23228-0176) and the United States Department of Agriculture shall be accompanied by an official certificate of health issued by an accredited veterinarian. This incorporation by reference does not include any future amendments or editions beyond the date specified.
No tuberculin test is required for cattle originating from Accredited Tuberculosis Free States. Cattle entering or being exhibited in Illinois from a state that is not Tuberculosis Accredited Free shall be accompanied by an official certificate of health issued by an accredited veterinarian showing:
a) Cattle originated from an accredited tuberculosis-free herd.
b) Accredited herd number and date of last test shall be recorded on the certificate and the cattle shall be identified by ear tag number, tattoo number or registration name and number; 7-OR
c) Cattle originating out-of-state were negative to a tuberculin test conducted within 60 days prior to exhibition; OR-OR
d) If Illinois is not an Accredited Tuberculosis Free State, cattle originating in Illinois were negative to a tuberculin test conducted within 90 days prior to exhibition.

Accredited Tuberculosis Free State status is not recognized for bison but individual herd status for bison is recognized.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

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Section 80.120 Tuberculin Tests

- a) The caudal fold test shall be the official tuberculin test for testing of cattle, bison, sheep, goats, and antelope not known to be infected with, or exposed to, bovine tuberculosis. The caudal fold test shall be applied by accredited veterinarians or by full-time State or Federal regulatory veterinarians.
- b) The comparative cervical test shall be the official tuberculin test for retesting suspects. The comparative cervical test shall be applied only by full-time employed State or Federal regulatory veterinarians. The comparative cervical test must be applied within 10 or not less than 60 days following the initial caudal fold injection.
- c) The single cervical test shall be the official tuberculin test for retesting known infected herds and exposed cattle, bison, sheep, goats, antelope or cervidae which were once part of a known infected herd and is the official tuberculin test for any type of testing for cervidae. The single cervical test shall be applied only by full-time employed State or Federal regulatory veterinarians or by designated accredited veterinarians as defined by the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae, (effective May-15-1994--and including 1996--amendments--as approved by the United States Animal Health Association (P-8--Box #232)--Suite--114--1618--Forest--Avenue--Richmond--Virginia--23229) and/or the United States Department of Agriculture--this incorporation by reference--does not--include--any future editions or amendments beyond the date specified

(Source: Amended at ____ Ill. Reg. ____, effective _____)

Section 80.130 Establishing and Maintaining Accredited Tuberculosis-Free Goats Herds

- a) General Requirements
- 1) Accredited tuberculosis-free herd certificates, which shall be valid for one year, unless revoked due to a positive test in accordance with the procedures outlined in the Bovine Tuberculosis Eradication Uniform Methods and Rules, effective June 1997, Part III-B, Accredited Herd Plan for Dairy Goats (9 ER-77-37-19997) shall be issued by the Department. This incorporation by reference does not include any future editions or amendments beyond the date specified.
 - 2) Certificates may be extended for a period of one year upon evidence of a negative herd retest and compliance with all requirements for maintenance of an accredited tuberculosis-free herd.
 - 3) A "herd" shall be considered as including all animals 12 months of age and over and shall consist of at least 5 animals.

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- 4) All animals in the herd shall be identified by registration number, individual tattoo, or ear tag.
 - 5) All official tuberculin tests shall be conducted by an accredited veterinarian or a veterinarian in the employ of the Illinois Department of Agriculture or the United States Department of Agriculture.
- b) To Qualify for Accreditation
- 1) Herds shall be accredited upon completion of 2 consecutive negative complete herd tests not less than 10 nor more than 14 months apart.
 - 2) If a reaction to the tuberculin test is disclosed, the veterinarian reading the test shall, within 24 hours, notify the Department by collect telephone call and make arrangements for a veterinarian trained in conducting the comparative cervical test to retest the animal within 10 days after the original injection. If the animal is identified as a reactor as a result of the comparative cervical test, personnel from either the Illinois Department of Agriculture or the United States Department of Agriculture will issue a quarantine, supervise disposition of reactor animals, and conduct additional tests on members of the herd.
- c) To Qualify for Reaccreditation
- 1) A negative herd test conducted within 60 days prior to the anniversary date is required for continuous accreditation. Upon receipt of a negative herd test, the Department shall extend accreditation for 12 months from the anniversary date.
 - 2) If the annual test for reaccreditation is conducted within 60 days following the anniversary date, certification will be restored and the accreditation period will be 12 months from the anniversary date.
 - 3) If the annual test for reaccreditation is not conducted within 60 days following the anniversary date, accreditation is cancelled and reaccreditation requirements are then the same as for initial accreditation.
 - 4) If a reaction to the tuberculin test is disclosed at the time of the reaccreditation test, the procedure outlined in subsection (b)(2) of this Section shall be followed.
- d) Additions to Accredited Tuberculosis-Free Herds
- 1) Animals originating from other accredited herds may be added without tests.
 - 2) Animals originating from herds not accredited may be added, provided they are negative to an official test for tuberculosis within 60 days prior to addition and are retested and negative to an official tuberculin test not sooner than 60 days from the date the previous test was conducted.
 - 3) Purchased additions shall not receive new herd status for sale or exhibition purposes until they have been members of the herd for at least 60 days and are included in a complete herd retest.

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(Source: Amended at _____, Ill. Reg. _____, effective _____)

Section 80.140 Cervidae

a) All cervidae entering Illinois shall comply with the following:

- 1) Be negative to two single cervical tests using 0.1 PPD Bovis tuberculin in the midcervical region with reading by observation and palpation at 72 hours, plus or minus 6 hours, no less than 90 days apart, with the second test conducted within 90 days prior to the movement, for all animals 12 months of age and over that were isolated from all other members of the herd during the testing period, unless they originate from an accredited, qualified or monitored herd;

A) Cervidae from an accredited herd may be moved into Illinois without further tuberculosis testing provided that they are accompanied by a certificate stating that such cervidae originated from an accredited herd.

B) Cervidae originating from qualified or monitored herds may enter Illinois with a negative test within 90 days prior to importation and a certificate stating that the animals originate from a monitored herd.

C) Institutions that have been accredited by the American Zoo and Aquarium Association (AZAA) are exempt from these requirements when movement is between accredited member facilities. All other movement from AZAA-accredited members must comply with these movement requirements.

2) Be accompanied by a Certificate of Veterinary Inspection issued by an accredited veterinarian within 30 days prior to importation.

3) Be individually identified by an approved ear tag, microchip or tattoo.

4) Be accompanied by a permit obtained from the Department as follows:

A) Applicant for permit shall furnish the following information to the Department:

i) Name and post office mailing address of Illinois destination;

ii) Name and post office mailing address of consignor;

iii) Number of cervidae in shipment.

B) Grounds for refusal to issue permit are:

i) Violation of the Act or any rule of this Part;

ii) Presence of a disease which might endanger Illinois livestock industry;

iii) Refusal to provide required information for the permit.

C) Permits will be issued by telephoning or writing the Department.

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- b) Accredited, qualified and monitored tuberculosis-free cervidae herds shall be established and maintained in accordance with the Uniform Methods and Rules for Tuberculosis Eradication in Cervidae, as approved by the United States Animal Health Association (P-6-Box 4327, Suite 114, 1618 Forest Avenue, Richmond, Virginia 23228) (effective May 15, 1994) including 1996 amendments and Federal Register Vol. 63, No. 35, February 23, 1998, Pages 8837-8840) and/or the United States Department of Agriculture. This incorporation by reference does not include any future editions or amendments beyond the date specified. Illinois must also be in compliance with the Illinois Wildlife Code (520 ILCS 5).

(Source: Amended at _____, Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Dead Animal Disposal Act
- 2) Code Citation: 8 Ill. Adm. Code 90
- 3) Section Number: Proposed Action:
90.110 Amended
- 4) Statutory Authority: Illinois Dead Animal Disposal Act [225 ILCS 610]
- 5) A Complete Description of the Subjects and Issues Involved: Anyone using composting as a method of disposal will be subject to registration and inspection by the Department.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 28, 1999 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-3281
Telephone: 217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 1999. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Livestock producers.
- B) Reporting, bookkeeping or other procedures required for compliance: Composting facilities must be approved, registered and subject to inspections by the Department. There is no cost for registration.
- C) Types of professional skills necessary for compliance: No additional professional skills are needed.

- 13) Regulatory agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER 1: DEPARTMENT OF AGRICULTURE
SUBCHAPTER D: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 90

ILLINOIS DEAD ANIMAL DISPOSAL ACT

Section

- 90.5 Definitions
- 90.10 Plant Facilities
- 90.20 Plant Premises
- 90.30 Annual Truck Permits (Repealed)
- 90.40 Truck Operator's Records (Repealed)
- 90.50 Odors and Insects Shall Be Controlled
- 90.60 Salmonella Control for Renderers and Blenders
- 90.70 Inspection of Premise (Repealed)
- 90.80 Identification of Receptacles
- 90.90 Records (Repealed)
- 90.100 Transportation and Transactions (Repealed)
- 90.105 Owner Transportation to Landfill
- 90.110 On-The-Farm Disposal
- 90.120 Collection Center
- 90.130 Disposal By Collection Center of Unusable Materials

AUTHORITY: Implementing and authorized by the Illinois Dead Animal Disposal Act (225 ILCS 610).

SOURCE: Regulations Relating to the Disposal of Dead Animals, filed January 17, 1972, effective January 27, 1972; filed December 6, 1972, effective December 16, 1972; codified at 5 Ill. Reg. 10458, amended at 7 Ill. Reg. 852, effective January 10, 1983; amended at 8 Ill. Reg. 5397, effective April 23, 1984; amended at 13 Ill. Reg. 3681, effective March 13, 1989; amended at 16 Ill. Reg. 11773, effective July 8, 1992; amended at 18 Ill. Reg. 14917, effective September 26, 1994; amended at 20 Ill. Reg. 294, effective January 1, 1996; amended at ____ Ill. Reg. _____, effective ____.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 90.110 On-The-Farm Disposal

Any facility utilizing disposal by composting shall be approved, registered and subject to inspection by the Department. Persons disposing of animals, poultry, fish, or parts of bodies thereof, other than to a licensed renderer, shall comply with the following:

- a) Disposal by Burning.

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- 1) No open burning will be permitted.
- 2) Any disposal by burning must be performed with an incinerator that is in compliance with the Illinois Environmental Protection Act (415 ILCS 5).

b) Disposal by Burying.

- 1) Burial shall be on the premises owned or operated by the owner of the dead animal.
 - A) Location shall be in an area where runoff will not contaminate water supplies or allow leachate to discharge into streams, ponds or lakes.
 - i) Dead animals shall not be buried less than 200 feet from a stream, private potable water supply well, or any other potable water supply source, except in accordance with Section 14.2(b) of the Illinois Environmental Protection Act.
 - ii) Dead Animals shall not be buried within the applicable 200 or 400 foot minimum setback zone of an existing community water supply well as established pursuant to Section 14.2 of the Illinois Environmental Protection Act.
 - B) Dead animals shall not be buried less than 200 feet from any existing residence not owned or occupied by the owner of the animal.
 - C) No more than a ratio of one pound of dead animals per one square foot of surface area shall be buried on an annual basis. No more than 3,000 pounds of dead animals shall be buried in each site location, and the same site shall not be used more frequently than once every two years for burial purposes. There shall be no more than three site locations within a radius of 120 feet.
- 2) Burial depth shall be sufficient to provide at least a six-inch compacted soil cover over the uppermost part of the carcass. Precautions shall be taken to minimize soil erosion.
- 3) The abdominal cavity of large carcasses shall be punctured to allow escape of putrefactive gases.
- 4) Lime or other chemical agent shall not be used to prevent decomposition.
- 5) Precautions shall be taken at the site of burial necessary to prevent any disturbance by animal or mechanical means.
- 6) Disease and nuisance vectors are to be minimized and controlled.
- 7) Final cover or settling shall be limited to a 5% or less slope differential from the normal gradient of its general surroundings.
- 8) Burial site locations shall be available for inspection by Department personnel during normal working hours.

- c) Disposal of poultry by composting. Persons disposing of poultry by means of composting shall comply with the following requirements:
 - 1) The composters shall meet the following criteria:

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- A) A roof shall cover the entire composting area.
 - B) An impervious, weight-bearing foundation such as concrete shall be used.
 - C) Rot-resistant building materials such as preservative-treated lumber shall be used.
 - D) The composters shall consist of primary and secondary bins.
 - E) The size of the composter shall be based on the farm's projected mortality rate of poultry, in which one pound of dead poultry per cubic foot of primary compost space per day is provided.
- 2) Composting shall comply with the following guidelines:
 - A) A mixture of one part dead poultry (by weight), one and one-half part poultry litter, and one-tenth part of straw shall be used. For example: 400 pounds of dead poultry will require 600 pounds of poultry litter and 40 pounds of straw.
 - B) Layering shall be done in the following order, starting from the floor: (first layer) Straw, poultry litter, straw, birds, and poultry litter. Second and subsequent layers: straw, birds, and poultry litter.
 - C) A 36-inch probe-type thermometer shall be inserted daily into the pile to check the temperature. Within two to four days, the temperature should peak between 135° F. and 150° F.
 - D) Once the temperature begins to fall from the peak (normally 7 to 10 days), the material shall be removed to the secondary treatment bin.
 - E) After 7 to 10 days in the secondary bin, the compost may be agronomically distributed over land under cultivation or reused in the composting process. For the purpose of this subsection, the agronomic rate is the annual application rate of poultry compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.
 - 3) The composted material may be substituted for up to one-half of the poultry litter and one-half of the straw.
- d) Disposal of fish by composting. Persons disposing of fish by means of composting shall comply with the following requirements:
 - 1) The composter shall meet the following criteria:
 - A) A roof shall cover the entire composting area.
 - B) An impervious, weight-bearing foundation such as concrete shall be used.
 - C) Rot-resistant building materials such as preservative-treated lumber shall be used.
 - 2) The base layer shall meet the following criteria:
 - A) Use 6 to 12 inches thick of a bulking agent.
 - B) Be no more than 6 to 8 feet wide, but as long as necessary

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- 3) To accommodate the day's supply of compost material.
 - A) Composting layer shall consist of a mixture of one part fish, three parts bulking agent and one part recycled compost (if available) or bulking agent and shall be mixed prior to use in the composting layer. The mixing of the materials for the composting layer shall be done in a manner to prevent leakage (e.g., stock tank, bucket, mixing drum).
 - B) The cover layer shall consist of two parts bulking agent and two parts recycled compost (if available) or two parts bulking agent and should reach a thickness of 6 to 12 inches.
 - C) Layering shall be done in the following order starting from the concrete: base layer, composting layer (fish, bulking agent and recycled compost), and cover layer. The composting and cover layers are piled on top of the base layer to form a trapezoid no higher than 4 feet.
 - D) Additions to the compost pile are done by adding new material to the end of the pile.
 - E) A probe-type thermometer shall be inserted daily into the pile to check the temperature. The temperature should peak between 140° F. and 165° F. The material can be recycled after it has composted for at least 2 to 3 weeks, and its temperature has dropped to air temperature.
 - F) After the temperature has dropped to air temperature (normally 2 to 3 weeks), the composted material may be used in the composting layer, or after one month, the composted material may be agronomically distributed over land under cultivation or reused in the cover layer. For the purpose of this subsection, the agronomic rate is the annual application rate of fish compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.
- e) Disposal of swine by composting. Persons disposing of swine by means of composting shall comply with the following requirements:
 - 1) The composter shall be located entirely over impervious foundation materials.
 - A) One of two foundations shall be used:
 - 1) impervious soil (permeability equal to or less than 1 x 10⁻⁷ cm/sec. as defined in Section 651.0703 "Geotechnical considerations in waste facility siting", Agricultural Waste Management Field Handbook, Soil Conservation Service, U.S. Department of Agriculture, 1992). A 4 to 6 inch base of ungraded (varying particle size) field lime over the soil foundation is suggested as a runoff control measure.
 - 2) an impervious, weight-bearing foundation such as

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- 2) concrete or asphalt.
- 3) Surface water shall be diverted away from the compost.
- 3) Location shall be in an area where runoff will not contaminate water supplies or allow leachate to discharge into streams, ponds or lakes.
- A) Composter shall not be constructed less than 200 feet from a stream, private potable water supply well, or any other potable water supply source, except in accordance with Section 14.2(b) of the Illinois Environmental Protection Act.
- B) Composter shall not be constructed within the applicable 200 or 400 foot minimum setback zone of an existing community water supply well as established pursuant to Section 14.2 of the Illinois Environmental Protection Act.
- 4) The composter shall consist of primary and secondary bins. The size of the composter shall be based on the farm's projected mortality rate of swine during any three-month period. The primary and secondary bins shall each contain a minimum of 10 square feet of composting area for each 1000 pounds of carcass to be composted.
- 5) The composter shall be constructed of permanent rot-resistant wall materials, such as preservative-treated wood, concrete, or precast concrete such as highway lane dividers. Each composter bin shall be three sides of a rectangle or square. One side of the bin shall be left open for loading, unloading and mixing the compost. In emergency situations, hay bales of 48 inches or greater in diameter may be used on a temporary basis in the above configuration of side walls.
- 6) Composting shall comply with the following guidelines:
 - A) Sawdust shall be the primary carbon source material. Sawdust from treated wood products shall not be used in any composting processes under any circumstance. Other carbon source materials may be used for no more than fifty percent (by volume) of the total carbon source, with sawdust making up the remaining fraction. When more than one carbon source material is used, sawdust shall be distributed by mixing throughout the secondary carbon source materials. Other carbon source materials could include chopped straw or chopped corn cobs.
 - B) It is expected that sawdust will be required in the ratio of approximately one cubic foot of sawdust per ten pounds of carcass (3.7 cubic yards of sawdust per 1000 pounds of carcass). A supply of sawdust shall be stockpiled and maintained on the premises at all times when the composter is in operation.
 - C) Each compost bin shall have a layer of sawdust a minimum of 10 inches deep placed on the floor before the first carcass is placed in the bin. There shall be a minimum of 10 inches

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- of sawdust between the carcass and each of the vertical walls of the bin. The carcass shall be covered with a minimum of 10 inches of sawdust. Sawdust shall be added to the pile as composting begins, daily or as frequently as needed to sustain a 10 inch cover of sawdust over all carcasses in the bin's uppermost layer.
- D) A compost thermometer with a probe at least 36" long shall be obtained and used daily to measure the temperature of the compost in the middle of each bin. The compost temperature should reach 135 to 160 degrees F. (57 to 71 C.) and be recorded daily. Compost temperature indicates microbial activity and stage of composting process. The composting process shall be managed in such a way that the heating and decomposition can proceed to completion. If aerobic composting does not begin within 7 days, i.e., if temperatures do not rise above 135 F., the compost pile shall be turned and moisture content of the sawdust adjusted to allow the process to proceed. Temperature records shall be available for examination until the compost is disposed of as in subsection (e)(6)(G) below.
 - E) Sawdust and carcasses may be placed in the bin until the bin is full.
 - F) All compost from the primary bin shall be allowed to undergo a second composting phase as follows:
 - i) When the temperature surrounding the last carcass placed in the composter drops below 130 degrees F. (typically up to three months after the last carcass addition), the compost in that bin shall be transferred to a second bin and allowed to reheat, through a second composting cycle. Moisture shall be added to the compost as needed to promote further composting activity.
 - ii) Compost shall remain in the second bin for the duration of the secondary composting cycle (typically three months). Temperature of the compost shall be measured using the compost thermometer to monitor the composting process.
 - G) Finished compost shall be agronomically distributed over land under cultivation or be returned to the composting process. Finished compost may be returned to the primary composting bin in the ratio of up to 30 percent finished compost to fresh sawdust. For the purpose of this subsection, the agronomic rate is the annual application rate of swine compost, either alone or in combination with other nutrient supplying materials, that is necessary to achieve a reasonable crop yield without exceeding crop nutrient requirements.

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(Source: Amended at _____ Ill. Reg. _____, effective _____)

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1) Heading of the Part: Illinois Pseudorabies Control Act

2) Code Citation: 8 Ill. Adm. Code 115

3) Section Number: Proposed Action:
115.15 Amended
115.80 Amended
115.110 New Section
115.120 New Section

4) Statutory Authority: Illinois Pseudorabies Control Act [510 ILCS 90]

5) A Complete Description of the Subjects and Issues Involved: The Department is moving the references to documents incorporated by reference under these regulations to a single Section as suggested by JOAR.

It is anticipated that Illinois will be awarded Pseudorabies Stage IV status in October, 1999. With the achievement of that status, the Pseudorabies Eradication State-Federal-Industry Program Standards require tougher testing and import standards for Stage IV states. These changes result from this requirement. Feeder swine will only be allowed to be imported into Illinois from Stage IV or V states or from a pseudorabies qualified negative herd, a qualified negative vaccinated herd, or a herd where a 95/10 test of the breeding herd was conducted within 30 days of shipment.

Slaughter swine entering Illinois from Stage I or II states or from pseudorabies infected or exposed herds will be required to obtain a permit prior to entry. The use of pseudorabies vaccine will be prohibited in Illinois, except upon permission by the Department.

6) Will this proposed rule replace an emergency rule in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 28, 1999 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield,

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Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
Department of Agriculture
State Fairgrounds, P.O. Box 19281
Springfield IL 62794-9281
217/785-5713
Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 1999. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Swine producers.

B) Reporting, bookkeeping or other procedures required for compliance: Producers currently purchasing feeder pigs from Stage I, II or III states may have to look for alternative sources of animals if the herds they are currently purchasing are not a pseudorabies qualified negative herd, a qualified negative vaccinated herd, or a herd where a 95/10 test of the breeding herd is being conducted within 30 days of shipment. Use of the laboratory is voluntary, so there is no mandated effect.

C) Types of professional skills necessary for compliance: No additional professional skills are needed.

13) Regulatory agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER 1: DEPARTMENT OF AGRICULTURE
SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS
(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 115

ILLINOIS PSEUDORABIES CONTROL ACT

Section

115.10	Definitions
115.15	Incorporation by Reference
115.20	Pseudorabies Quarantines
115.30	General Requirements for Qualified Pseudorabies Negative, Negative Gene-Altered Vaccinated and Feeder Swine Pseudorabies Monitored Herds Requirements for Establishing and Maintaining Qualified Pseudorabies Negative Herds
115.50	Requirements for Establishing and Maintaining Pseudorabies Qualified-Negative Gene-Altered Vaccinated (QNV) Swine Herds
115.60	Requirements for Establishing and Maintaining Feeder Swine Pseudorabies Monitored Herds (Repealed)
115.70	Pseudorabies Test Requirements for Intrastate Movement
115.80	Pseudorabies Testing of Feeder Swine
115.90	Feeder Swine
115.100	Breeding Animals Consigned to Slaughter
115.110	Swine Intended for Slaughter; Permit
115.120	Use of Vaccine

AUTHORITY: Implementing and authorized by the Illinois Pseudorabies Control Act [510 ILCS 90].

SOURCE: Adopted at 12 Ill. Reg. 3394, effective January 22, 1988; amended at 13 Ill. Reg. 3685, effective March 13, 1989; amended at 14 Ill. Reg. 1995, effective January 19, 1990; amended at 14 Ill. Reg. 5065, effective March 21, 1990; amended at 14 Ill. Reg. 15318, effective September 10, 1990; amended at 16 Ill. Reg. 11781, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5906, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14006, effective August 16, 1993; amended at 20 Ill. Reg. 1542, effective January 12, 1996; amended at 21 Ill. Reg. 904, effective January 7, 1997; amended at 21 Ill. Reg. 17079, effective January 1, 1998; amended at 23 Ill. Reg. 434, effective January 1, 1999; amended at _____ Ill. Reg. _____, effective _____.

Section 115.15 Incorporation by Reference

The Pseudorabies Eradication State-Federal-Industry Program Standards (Jan. 1999), as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) is incorporated ~~incorporations~~ by reference in this part and ~~does~~ do not include

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any later amendments or editions beyond the date specified.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 115.80 Pseudorabies Testing of Feeder Swine

a) Swine for feeding purposes shall, in addition to complying with the other requirements of this Part and 8 Ill. Adm. Code 105.10, enter or move within Illinois without further testing requirements for pseudorabies if:

- a) The swine are from a qualified pseudorabies negative herd, a QNV herd, or a herd where a 95/10 test of the breeding herd was conducted within 30 days prior to shipment feeder-swine pseudorabies-monitored-herd; or
- b) The swine are from a herd in which a representative sample of 30 negative 6-months-of-age-and-over have been tested-and-are negative-to-an-official-serological-test-for-pseudorabies-within the preceding 12 months--in herds--of--35--animals--or--less--a representative sample is all swine 6-months-of-age-and-over--or at least--10--animals--whichever is less--in herds--of--36--animals--or more--a representative sample is a minimum of 30 percent--or--30 animals--that are 6-months-of-age-and-over--whichever is less--or animals that originate from a state that has been classified as Stag, #17 IV or V under the pseudorabies Eradication State-Federal-Industry Program Standards (48n-1998) as approved by the United States-Animal Health-Association--(P-8--Box-203767--Suite-2057-6924-Lakeside-Avenue, Richmond-Virginia-23220-0476) or originate from a country that meets the requirements for Stage V. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

- b) Swine tested for pseudorabies under a market-swine testing program (Section--115.100)--shall be included in the representative sample required in subsection (a)(2).

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 115.110 Swine Intended for Slaughter; Permit

Animals consigned to slaughter from Stage I or II states or from infected or exposed herds may be shipped into Illinois only upon permit from the Department and shall go directly to a recognized slaughter establishment or approved slaughter market. Permits to import slaughter swine from Stage I or II states or infected or exposed herds shall be issued by telephoning or writing the Department.

- a) The applicant for the permit shall furnish the following information to the Department:
- 1) Name and complete mailing address of Illinois destination.

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2) Name and address of consignor.

3) Number of swine in shipment.

- b) Grounds for refusal to issue a permit are:

- 1) Violation of the Act or any rule of this Part.
- 2) Presence of a disease that might endanger the Illinois swine industry.

(Source: Added at _____ Ill. Reg. _____, effective _____)

Section 115.120 Use of Vaccine

Use of pseudorabies vaccine is prohibited except upon permission by the Department. Permission will be granted to herds when epidemiological evidence indicates that the herd is at risk, such as herds or areas that have had recent pseudorabies infection or are importing or exporting.

(Source: Added at _____ Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Swine Disease Control and Eradication Act
- 2) Code Citation: 8 Ill. Adm. Code 105
- 3) Section Number:
 - 105.5 Amended
 - 105.7 New Section
 - 105.10 Amended
 - 105.30 Amended
 - 105.100 New Section
- 4) Statutory Authority: Illinois Swine Disease Control and Eradication Act [510 ILCS 100], the Illinois Pseudorabies Control Act [510 ILCS 90], and the Illinois Swine Brucellosis Eradication Act [510 ILCS 95]
- 5) A Complete Description of the Subjects and Issues Involved: The Department is moving the references to documents incorporated by reference under these regulations to a single Section as suggested by JCAR.

A definition of "pig show/sales" and regulations regarding these types of events are being added to diminish the risk of the reintroduction of pseudorabies into Illinois through these types of sales. Swine entering Illinois and moving through these types of sales must originate from Stage IV or V states or from a pseudorabies qualified negative herd, a qualified negative vaccinated herd, or a herd where a 95/10 test of the breeding herd was conducted within 30 days of shipment from a Stage III state. Feeder swine from Stage I or II states will not be allowed.

Persons applying for permits to move breeding or feeder swine into Illinois will be required to reveal the vaccination status of the swine.

Exhibition swine returning to Illinois from out-of-state shows will be required to be quarantined and isolated from the remainder of the herd until the swine have been retested and found negative for pseudorabies 21-60 days post-entry.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this

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Proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. In addition to the written comment period, a public hearing on the proposed amendments will be held on Thursday, October 28, 1999 at 10:00 a.m., Department of Agriculture Building, 8th & Sangamon, State Fairgrounds, Springfield, Illinois. Please mail written comments on the proposed rulemaking to the attention of:

Linda Rhodes
 Department of Agriculture
 State Fairgrounds, P.O. Box 19281
 Springfield IL 62794-9281
 217/785-5713
 Facsimile: 217/785-4505

In order for mailed comments to be available for consideration at the public hearing, please mail no later than October 22, 1999. All comments received will be fully considered by the agency and the Advisory Board of Livestock Commissioners. The public hearing on the proposed rulemaking will run concurrently with a public meeting of the Advisory Board of Livestock Commissioners.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Swine producers.
- B) Reporting, bookkeeping or other procedures required for compliance: Producers currently purchasing feeder pigs for exhibition purposes from Stage I or II states, or from Stage III states not meeting the testing requirements will have to look for alternative sources of animals. Most producers are already isolating and retesting their exhibition stock for good management practices.
- C) Types of professional skills necessary for compliance: No additional professional skills are needed.

- 13) Regulatory agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS

CHAPTER 1: DEPARTMENT OF AGRICULTURE

SUBCHAPTER b: ANIMALS AND ANIMAL PRODUCTS

(EXCEPT MEAT AND POULTRY INSPECTION ACT REGULATIONS)

PART 105

SWINE DISEASE CONTROL AND ERADICATION ACT

Section

105.5

Definitions

105.7

Incorporation by Reference

105.10

Swine Entering Illinois for Feeding Purposes Only

105.20

Quarantine of Imported Feeder Swine

105.30

Swine Entering Illinois for Breeding Purposes

105.40

Pseudorabies (Aujeszky's Disease) in Swine (Repealed)

105.41

General Requirements for Qualified Pseudorabies Negative, Controlled

105.42

Vaccinated and Feeder Swine Pseudorabies Monitored Herds (Repealed)

105.44

Requirements for Establishing and Maintaining Qualified Pseudorabies

105.46

Negative Herds (Repealed)

105.48

Requirements for Establishing and Maintaining Feeder Swine

105.50

Pseudorabies Monitored Herds (Repealed)

105.52

Official Pseudorabies Test (Repealed)

105.54

Pseudorabies Test Requirements for Intrastate Movement (Repealed)

105.56

Pseudorabies Testing of Feeder Swine (Repealed)

105.58

Feeder Swine (Repealed)

105.60

Feral Swine

105.62

Feeder Swine Moving Through Pig Shows/Sales

105.64

Feeder Swine Moving Through Pig Shows/Sales

105.66

Feeder Swine Moving Through Pig Shows/Sales

105.68

Feeder Swine Moving Through Pig Shows/Sales

105.70

Feeder Swine Moving Through Pig Shows/Sales

105.72

Feeder Swine Moving Through Pig Shows/Sales

105.74

Feeder Swine Moving Through Pig Shows/Sales

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11799, effective July 8, 1992; emergency amendment at 17 Ill. Reg. 5910, effective March 17, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 14010, effective August 16, 1993; amended at 18 Ill. Reg. 1880, effective January 24, 1994; amended at 18 Ill. Reg. 17968, effective January 1, 1995; amended at 20 Ill. Reg. 1563, effective January 12, 1996; amended at 21 Ill. Reg. 917, effective January 7, 1997; amended at 21 Ill. Reg. 17094, effective January 1, 1998; amended at 23 Ill. Reg. 459, effective January 1, 1999; amended at _____, Ill. Reg. _____, effective _____.

Section 105.5 Definitions

The definitions for this Part shall be as set forth in the general definitions Section (8 Ill. Adm. Code 20.1). Also, the following definitions shall apply to this Part:

"Act" means the Illinois Swine Disease Control and Eradication Act [510 ILCS 100].

"Feral swine" mean swine that have lived any part of their lives free roaming. Swine may lose their designation as feral if they are maintained in captivity for at least 30 days and are tested negative for pseudorabies and brucellosis.

"Pig shows/sales" means events where feeder swine are commingled and sold with the intent of the swine being used for exhibition purposes.

"Site tattoo" means a permanent mark applied in the right ear or a slap tattoo on the right shoulder showing a unique number giving state and herd of origin. The unique number shall be assigned and approved by the Chief Animal Health Official of the state of origin or by the Federal Veterinarian in charge for that state.

(Source: Amended at _____ Ill. Reg. _____, effective _____.)

Section 105.7 Incorporation by Reference

The Pseudorabies Eradication State-Federal-Industry Program Standards (Jan. 1999) as approved by the United States Animal Health Association (P.O. Box 28176, Suite 205, 6924 Lakeside Avenue, Richmond, Virginia 23228-0176) and the Swine Brucellosis Eradication Uniform Methods and Rules (April 1998) as approved by the United States Animal Health Association, P.O. Box K227, Suite 114, 1610 Forest Avenue, Richmond, Virginia 23228) are incorporated by reference in this Part and do not include any later amendments or editions beyond the date specified.

(Source: Added at _____ Ill. Reg. _____, effective _____.)

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Section 105.10 Swine Entering Illinois for Feeding Purposes Only

- a) Feeder swine, except feral swine, may enter Illinois provided they are identified by an ear tag or site tattoo in the right ear showing state of origin and accompanied by a permit from the Department and an official health certificate.

- b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or a veterinarian in the employ of the United States Department of Agriculture;
- 2) Be approved by the Animal Health Official of state of origin;
- 3) Show that the feeder swine are free from visible evidence of any contagious, infectious, or communicable disease or exposure thereof;
- 4) Show that the feeder swine are not from a quarantined herd and/or area;
- 5) List number and description of the feeder swine, site tattoos, ear tag series or location of ear tag records when pigs originate from cooperative feeder pig sales; and
- 6) Show that the swine originated from a herd in which a representative sample of the breeding herd has been tested and found negative for pseudorabies (8 Ill. Adm. Code 115.80), originate from a qualified pseudorabies negative or pseudorabies negative gene-altered vaccinated herd or originate from a state that has been classified as Stage III, IV or V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January-1999)-as approved by the United States Animal Health Association (P-8--Box-23176--Suite-2857-5924-Iakeide-Avenue-Richmond-Virginia-23228-6176)-or originate from a country that meets the requirements for Stage V--this incorporation by reference does not include any future editions or amendments beyond the date specified. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state.

- c) Permits:

- 1) Permits to import feeder swine shall only be issued to:
 - A) An Illinois licensed feeder swine dealer; and
 - B) A person importing pigs to feed on his own premises and not for resale other than to slaughter.
- 2) Applicant for permit shall furnish the following information to the Department:
 - A) Name and complete mailing address of Illinois destination.
 - B) Name and address of consignor.
 - C) Number of swine in shipment.
 - D) Pseudorabies vaccination status of swine.
- 3) Grounds for refusal to issue a permit are:
 - A) Violation of the Act or any rule of this Part.

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- B) If a person should be licensed under the Illinois Feeder Swine Dealer Licensing Act [225 ILCS 620] and his or her license is not in good standing with the Department.
- C) Presence of a disease which might endanger the Illinois swine industry.

(Source: Amended at ____ Ill. Reg. ____, effective ____)

Section 105.30 Swine Entering Illinois for Breeding Purposes

- a) Swine for breeding purposes, or of breeding age returning to Illinois after exhibition, except feral swine, may enter Illinois provided they are accompanied by a permit from the Department and an official health certificate.

- b) Official health certificate shall:

- 1) Be issued by an accredited veterinarian of the state of origin or by a veterinarian in the employ of the United States Department of Agriculture;
- 2) Be approved by the Animal Health Official of the state of origin;
- 3) Identify each animal by registration number, approved ear tag, breed registry tattoo, or ear notch approved by the respective breed registry;
- 4) Show the swine are free from visible evidence of contagious, infectious, or communicable diseases;
- 5) Show that the swine are not from a quarantined herd and/or area;
- 6) Show any swine more than 4 months of age to be negative to an official test for brucellosis, conducted by an approved laboratory within 30 days prior to entry, OR that the swine originate from a validated brucellosis-free herd, with validated herd number and validation date listed on the health certificate, OR that the swine originate from a validated brucellosis-free state (Swine Brucellosis Eradication Uniform Methods and Rules (April-1998)-as approved by the United States Animal Health Association (P-8--Box-R2277--Suite-1147-1610--Forest-Avenue-Richmond-Virginia-23228))-incorporation by reference does not include any amendments or editions beyond the date specified; and
- 7) Show any swine to be negative to an official test for pseudorabies conducted by an approved laboratory within 30 days prior to entry OR that the swine originated from a qualified pseudorabies negative herd, with the qualified herd number and qualification date listed on the health certificate, OR that the swine originated from a country that meets the requirements for Stage V or from a state that has been classified as Stage IV or State V under the Pseudorabies Eradication State-Federal-Industry Program Standards (January-1999)-as approved by the United States Animal Health Association (P-8--Box-R2277--Suite-1147-1610--Forest-Avenue-Richmond-Virginia-23228)). If there are multiple

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pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above. Incorporation--by reference--does not include any amendments or editions beyond the date specified:

c) Permits:

1) Permits to import breeding swine shall be issued by telephoning or writing the Department.

2) Applicant for permit shall furnish the following information to the Department:

Name and complete mailing address of Illinois destination;

Name and address of consignor; and

Number of swine in shipment; and:

Pseudorabies vaccination status of swine.

3) Grounds for refusal to issue a permit are:

A) Violation of the Act or any rule of this Part; and

B) Presence of a disease which might endanger the Illinois swine industry.

d) Imported breeding animals or swine of breeding age returning to Illinois after exhibition shall be kept quarantined and isolated until a percentage of the imported breeding swine are retested and negative to an official test for pseudorabies conducted not less than 21 days nor more than 60 days after entering Illinois. If the number of imported breeding animals is 35 or less, all or at least 10 animals, whichever is less, are to be tested. If more than 36 imported breeding animals are involved, a minimum of 30 percent or 30 animals, whichever is less, is to be tested. Imported breeding swine originating from a country that meets the requirements for Stage V or a state that has been classified as Stage IV or Stage V under the Pseudorabies Eradication State-Federal-Industry Program Standards are exempt from the isolation and retest provisions. If there are multiple pseudorabies classifications within a state, the lowest classification shall be recognized by this Department as the classification for that entire state if the state is split with a classification of Stage III and below. Split state status will be recognized for split III/IV and above.

(Source: Amended at _____ Ill. Reg. _____, effective _____)

Section 105.100 Feeder Swine Moving Through Pig Shows/Sales

All feeder swine moving through or entering Illinois from pig shows/sales must originate from a Stage IV or Stage V state or from a qualified pseudorabies negative herd, a qualified negative vaccinated herd, or a herd where a 95/10 test of the breeding herd was conducted within 30 days prior to shipment from a

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Stage III state. Feeder swine from a Stage I or II state will not be allowed at or to enter from pig shows/sales.

(Source: Added at _____ Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Determination Of Unemployment Contributions2) Code Citation: 56 Ill. Adm. Code 27703) Section Number: 2770.110
Proposed Action:
Amended4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Part 2770 announces the 2000 contribution rates for newly liable employers by classification within their Standard Industrial Code. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the obsolete subsection with the rates for 1994, as it is no longer needed.6) Will the proposed amendment replace an emergency amendment currently in effect? No7) Does this rulemaking contain an automatic repeal date? No8) Does this Rule contain incorporations by reference? No9) Are there any other proposed amendments pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

This proposed amendment may have an impact on small businesses and not for profit corporations as defined in Sections 1-75 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75 and 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business or not-for-profit corporation as part of any written comments that they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small business, small municipalities and not for profit corporations affected: The proposed rules affect all businesses

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equally.

B) Reporting, bookkeeping or other procedures required for compliance:
NoneC) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: It is already provided for in Section 2770.105 that the Director shall annually announce the Standard Industrial Code rates for the upcoming year. Since 1984, the Director has been doing so through an amendment to Section 2770.110, so it was thought that it would be redundant to include this rulemaking in a Regulatory Agenda.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT

CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY

SUBCHAPTER C: RIGHTS AND DUTIES OF EMPLOYERS

PART 2770

DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section	Industrial Classification
2770.100	Contribution Rate For Non Experience-Rated Employers
2770.105	Average Contribution Rates By Standard Industrial Classification (SIC) Codes

SUBPART C: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section	Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)
2770.150	Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)
2770.155	Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)
2770.160	Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)
2770.165	Appeals (Repealed)
2770.170	

SUBPART E: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section	Definitions (Repealed)
2770.400	Application of Base Period Wages (Repealed)
2770.405	Restriction On Benefit Wage Transfers (Repealed)
2770.410	Benefit Wage Transfer Procedural Requirements (Repealed)
2770.415	Petition For Hearing (Repealed)
2770.420	

SUBPART F: BENEFIT WAGE CANCELLATIONS

Section	Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act
2770.501	

TABLE A General SIC Classifications

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].

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SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8208, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 15088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days; expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1989; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 350, effective January 1, 1996; amended at 21 Ill. Reg. 561, effective January 1, 1997; amended at 21 Ill. Reg. 15496, effective January 1, 1998; amended at 23 Ill. Reg. 155, effective January 1, 1999; amended at 23 Ill. Reg. _____, effective _____.

SUBPART B: STANDARD INDUSTRIAL CLASSIFICATION

Section Classification (SIC) Codes	2770.110 Average Contribution Rates	By Standard Industrial Classification	Rate
a) the average contribution rate for each Economic Division			
the fund-building rate as set forth in Section 1506.3 of the Act for calendar year 1994, as determined by the application of the 2770.105(a)(4) of this Part, shall be:			

Digits	Economic Division	Rate
01-09	A---Agriculture-Forestry	3-5%
10-14	B---Mining	4-1%
15-17	C---Construction	4-4%
20-39	D---Manufacturing	2-7%
40-49	E---Transportation-Communications-Electricity-Gas	2-6%
50-51	F---Wholesale Trade	2-0%
52-59	G---Retail Trade	0-1-6%

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60-67	H---Finance--Insurance--Real Estate	1-4%
70-89	I---Services	1-5%
91-97	J---Public-Administration	1-6%
99	K---Nonclassifiable-Establishments	1-9%

b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1995, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	4.0%
10-14	B. Mining	4.5%
15-17	C. Construction	5.0%
20-39	D. Manufacturing	3.2%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	3.0%
50-51	F. Wholesale Trade	2.4%
52-59	G. Retail Trade	1.9%
60-67	H. Finance, Insurance, Real Estate	1.7%
70-89	I. Services	1.8%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.5%

b(e) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1996, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.9%
10-14	B. Mining	4.3%
15-17	C. Construction	4.7%
20-39	D. Manufacturing	2.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.7%
50-51	F. Wholesale Trade	2.2%
52-59	G. Retail Trade	1.7%

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60-67	H. Finance, Insurance, Real Estate	1.5%
70-89	I. Services	1.7%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.4%

(c) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1997, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.2%
10-14	B. Mining	3.6%
15-17	C. Construction	3.8%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

(e) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1998, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.1%
10-14	B. Mining	3.4%
15-17	C. Construction	3.5%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160

- 3) Section Numbers: 160.70
Proposed Action: Amendment

- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ICS 5/12-13] and Public Law 104-193

- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's administrative rules for child support enforcement provide changes regarding the use of lien and levy on real and personal property, including accounts in financial institutions, to collect child support. The use of liens and financial institution data matches will aid in the enforcement and collection of child support in intrastate and interstate cases. The Department will use Multi-State Financial Institution Data Match material from the federal government to obtain matches of Illinois child support debtors with accounts in multi-state financial institutions.

The use of liens and financial institution data matches is mandated under federal law (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193) for purposes of child support collection. The data match material will be obtained from the federal government via the Multi-State Financial Institution Data Match. Additionally, the Department will be participating in the Automated Enforcement of Interstate cases (AEI) pilot project at the invitation of the federal government. These proposed amendments to the Department's rules on child support enforcement are necessary to implement the lien and levy enhancements and for participation in the AEI pilot project.

These proposed amendments, along with companion amendments to the Department's administrative hearing rules at 89 Ill. Adm. Code 104, will streamline the procedure for lien and levy while maintaining due process, and add a specific procedure for determining an unobligated joint owner's share of the personal property being levied.

The approximate costs for implementation of the necessary system programming changes associated with these proposed changes are expected to be \$550,000. Only insignificant staffing expenditures are anticipated because current staff of the Division of Child Support Enforcement will perform the lien and levy processes. Although the child support enforcement program will experience increased collections as a result of these processes, the amount of such increased collections cannot be estimated at this time.

- 6) Will these proposed amendments replace emergency amendments currently in

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- ef) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1999, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.2%
15-17	C. Construction	3.3%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.4%
52-59	G. Retail Trade	1.1%
60-67	H. Finance, Insurance, Real Estate	1.1%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%
f) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2000, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:		
Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.1%
15-17	C. Construction	3.2%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.3%
52-59	G. Retail Trade	1.0%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.0%
91-97	J. Public Administration	1.0%

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section	Proposed Action	Illinois Register Citation
160.30	Amendment	December 4, 1998 (22 Ill. Reg. 20755)
160.62	Repeal	December 4, 1998 (22 Ill. Reg. 20755)

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones, Office of the General Counsel - Rules
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002.

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit

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corporations affected: The Department is unsure whether or not any small businesses or other such entities will be affected by this proposed rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that appears in this issue of the Illinois Register on page 11411.

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1) Heading of the Part: Practice in Administrative Hearings

2) Code Citation: 89 Ill. Adm. Code 104

3) Section Numbers: Proposed Action:
104.100 Amendment
104.102 Amendment
104.103 Amendment
104.110 New Section

4) Statutory Authority: Section 12-1.3 of the Illinois Public Aid Code [305 ILCS 5/12-1.3] and Public Law 104-193

5) Complete Description of the Subjects and Issues Involved: These proposed amendments to the Department's rules on administrative hearings provide changes regarding the use of lien and levy on personal property, including accounts in financial institutions, to collect child support. The use of liens and financial institution data matches will aid in the enforcement and collection of child support in intrastate and interstate cases. The Department will use Multi-State Financial Institution Data Match material from the federal government to obtain matches of Illinois child support debtors with accounts in multi-state financial institutions.

The use of liens and financial institution data matches is mandated under federal law (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193) for purposes of child support collection. Data match material will be obtained from the federal government via the Multi-State Financial Institution Data Match. Additionally, the Department will be participating in the Automated Enforcement of Interstate cases (AEI) project at the invitation of the federal government. These proposed amendments to the Department's rules on administrative hearings and child support enforcement are necessary to implement the lien and levy enhancements and for participation in the AEI pilot project.

These proposed amendments, along with companion amendments to the Department's rules on child support enforcement at 89 Ill. Adm. Code 160, will streamline the procedure for lien and levy while maintaining due process, and add a specific procedure for determining an unobligated joint owner's share of the property being levied.

These proposed amendments concerning administrative hearings are not expected to result in any budgetary changes. However, for the related amendments to Part 160 on child support enforcement, the approximate costs for implementation of the necessary system programming changes are expected to be \$550,000. Only insignificant staffing expenditures are anticipated because current staff of the Division of Child Support Enforcement will perform the lien and levy processes. Although the child

DEPARTMENT OF PUBLIC AID

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support enforcement program will experience increased collections as a result of these processes, the amount of such increased collections cannot be estimated at this time.

6) Will these proposed amendments replace emergency amendments currently in effect? Yes

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

11) Time, Place, and Manner in which Interested Persons may comment on this Proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones, Office of the General Counsel - Rules
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The Department is unsure whether or not any small businesses or other such entities will be affected by this

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proposed rulemaking.

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments is identical to the text of the
Emergency Amendments that appears in this issue of the *Illinois Register* on
page **11434** -

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part Emergency Medical Services and Trauma Center Code
- 2) Code Citation: 77 Ill. Adm. Code 515
- 3) Section Numbers: Proposed Action:
 515.100 Amended
 515.125 Amended
 515.445 Renumbered from 515.2100
 515.2030 Amended
 515.2035 New Section
 515.2040 Amended
 515.2045 New Section
 515.2050 Amended
 515.2060 Amended
 515.2100 Renumbered to 515.445
 515-APPENDIX A Amended
 515-APPENDIX C Amended
 515-APPENDIX G New Section
 515-APPENDIX H New Section

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210
ILCS 50]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends the Department's rules governing the designation of trauma centers in Illinois. In addition to changes in the existing requirements, provisions for the designation of pediatric trauma centers are included.

Section 515.100 (Definitions) is being amended to delete the term "Affiliate Trauma Hospital." "Participating Hospital" will be used instead. A definition of "Board Eligible in Emergency Medicine" is being added, as well as a definition of "Pediatric Trauma Patient".

Section 515.125 (Incorporated and Referenced Materials) is being amended to update incorporated materials.

Section 515.445 (Pediatric Care) is being renumbered from Section 515.2100.

Section 515.2030 (Level I Trauma Center Designation Criteria) is amended to require trauma surgeons to have 10 hours of trauma-related continuing medical education per year, to require residents who are filling the trauma surgeon requirement to have ARS certification; to clarify the designated arrival times for surgeons; to require physicians providing emergency medical services to be board certified or board eligible by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine and to have 10 hours per year of AHA-approved Category

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I or II trauma-related continuing medical education. Physicians who meet the existing competency requirements and who are working in trauma as of January 1, 2000 will be allowed to continue in emergency medicine staff positions. Nurses in the Intensive Care Unit (ICU) will be required to have two years of ICU or critical care experience and four hours of continuing critical care education per year. Requirements for policies to be submitted with the redesignation packet are updated. These amendments also submit the trauma service to be identified in the facility's budget, with sufficient funds dedicated to support the trauma director and trauma coordinator's positions and to provide for operation of the trauma registry. The hospital will also be required to develop a policy that identifies what measures will be taken to avoid requesting a resource limitation/bypass.

Section 515-2035 (Level I Pediatric Trauma Center) is being added to set forth criteria for designation as a Level I Pediatric Trauma Center. Requirements for staffing, surgical services, nonsurgical services, intensive care unit, and equipment are included.

Section 515-2040 (Level II Trauma Center Designation Criteria) is being amended to require the Trauma Center Medical Director to have two years of experience in trauma care, to require trauma surgeons to have 10 hours of trauma-related continuing medical education per year, to require a backup schedule for a trauma surgeon who has other clinical responsibilities while on call for trauma surgery. Time frames for the arrivals of subspecialists are clarified. Requirements for emergency medicine staff physicians and ICU nurses and other professional staff are clarified. Equipment requirements for ICU are expanded. Requirements for focused outcome analyses are updated. Two new protocols are added that must be submitted every two years: Clinical protocols for management of the trauma patient in his basic resuscitation and management of specific injuries; and a suspension policy for trauma nurse specialists requiring due process. The trauma service must be identified in the facility's budget with funds dedicated to support, at a minimum, the trauma director and trauma coordinator's positions and to provide for operation of the trauma registry. The hospital will also be required to develop a policy that identifies what measures will be taken to avoid requesting a resource limitation/bypass.

Section 215-2045 (Level II Pediatric Trauma Center) is being added to establish designation criteria for Level II pediatric trauma centers. Requirements for surgical services, nonsurgical services, staffing, and equipment are included.

Section 215-2050 (Trauma Center Uniform Reporting Requirements) is amended to add information that must be provided on each reportable trauma patient. Requirements concerning collection of data for injury severity Score mean mortality rates are deleted. Trauma centers will be required

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to have a policy to back up and retrieve data on a regular basis.

Section 515-2060 (Trauma Patient Evaluation and Transfer) is being amended to require transfer of trauma patients to a Level I or Level II facility or to more specialized care to commence within 30 minutes after patients' arrival.

Section 515-Appendix A (A Request for Designation (RFD) Trauma Center) is being amended to correct cross-references.

Section 515-Appendix C (Minimum Trauma Field Triage Criteria) is being amended to change "affiliate trauma hospital" to "participating trauma hospital".

A new Section 515-Appendix G (Credentials of General/Trauma Surgeons) and 515-Appendix H (Credentials of Emergency Department Physicians) are being added. This information will be submitted to the Department with the Request for Designation.

The economic effect of the proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of this notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Incorporations by Reference? Yes
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules in writing within 45 days after this issue of the *Illinois Register* to:

Mr. Paul D. Thompson
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043

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rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Paul D. Thompson at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Entities that own/operate hospitals designated as trauma centers.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Reporting procedures are established in the proposed amendments, including computer capabilities (see Section 515.2050).

C) Types of Professional Skills Necessary for Compliance: Medical and administrative

13) Regulatory Agenda on which this rulemaking was summarized: July 1998

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER 1: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515

EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

SUBPART A: GENERAL

Section	Definitions
515.100	Incorporated and Referenced Materials
515.125	Waiver Provisions
515.150	Violations, Hearings and Fines
515.160	Employer Responsibility
515.170	

SUBPART B: EMS REGIONS

Section	Emergency Medical Services Regions
515.200	EMS Regional Plan Development
515.210	EMS Regional Plan Content
515.220	Resolution of Disputes Concerning the EMS Regional Plan
515.230	

SUBPART C: EMS SYSTEMS

Section	Approval of New EMS Systems
515.300	Approval and Renewal of EMS Systems
515.310	Bypass Status Review
515.315	Scope of EMS Service
515.320	EMS System Program Plan
515.330	EMS Medical Director's Course
515.340	Data Collection and Submission
515.350	Approval of Additional Drugs and Equipment
515.360	Automated Defibrillation
515.370	Do Not Resuscitate (DNR) Policy
515.380	Minimum Standards for Continuing Operation
515.390	General Communications
515.400	EMS System Communications
515.410	System Participation Suspensions
515.420	Suspension, Revocation and Denial of License of EMTs
515.430	State Emergency Medical Services Disciplinary Review Board
515.440	Pediatric Care
515.445	

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section	Emergency Medical Technician-Basic Training
515.500	Emergency Medical Technician-Intermediate Training
515.510	

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515.520 Emergency Medical Technician-Paramedic Training
 515.530 EMT Testing and Fees
 515.540 EMT Licensure
 515.550 Scope of Practice - Licensed EMT
 515.560 EMT-B Continuing Education
 515.570 EMT-I Continuing Education
 515.580 EMT-P Continuing Education
 515.590 EMT License Renewals
 515.600 EMT Inactive Status
 515.610 EMT Reciprocity

**SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER,
 FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE,
 EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND
 TRAUMA NURSE SPECIALIST**

515.700 EMS Lead Instructor
 515.710 Emergency Medical Dispatcher
 515.720 First Responder
 515.725 First Responder - AED
 515.730 Pre-Hospital Registered Nurse
 515.740 Emergency Communications Registered Nurse
 515.750 Trauma Nurse Specialist
 515.760 Trauma Nurse Specialist Program Plan

SUBPART F: VEHICLE SERVICE PROVIDERS

515.800 Vehicle Service Provider Licensure
 515.810 EMS Vehicle System Participation
 515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License
 515.830 Ambulance Licensing Requirements

**SUBPART G: LICENSE OF SPECIALIZED EMERGENCY MEDICAL
 SERVICES VEHICLE (SEMSV) PROGRAMS**

515.900 Licensure of SEMSV Programs - General
 515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure
 515.920 SEMSV Program Licensure Requirements for All Vehicles
 515.930 Helicopter and Fixed-Wing Aircraft Requirements
 515.935 EMS Pilot Specifications
 515.940 Aeromedical Crew Member Training Requirements
 515.945 Aircraft Vehicle Specifications and Operation
 515.950 Aircraft Medical Equipment and Drugs
 515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs

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515.960 Aircraft Communications and Dispatch Center
 515.965 Watercraft Requirements
 515.970 Watercraft Vehicle Specifications and Operation
 515.975 Watercraft Medical Equipment and Drugs
 515.980 Watercraft Communications and Dispatch Center
 515.985 Off-Road SEMSV Requirements
 515.990 Off-Road Vehicle Specifications and Operation
 515.995 Off-Road Medical Equipment and Drugs
 515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

515.2000 Trauma Center Designation
 515.2010 Denial of Application for Designation or Request for Renewal
 515.2020 Inspection and Revocation of Designation
 515.2030 Level I Trauma Center Designation Criteria
 515.2035 Level II Pediatric Trauma Center
 515.2040 Level II Pediatric Trauma Center Designation Criteria
 515.2050 Level II Pediatric Trauma Center
 515.2060 Trauma Center Uniform Reporting Requirements
 515.2070 Trauma Patient Evaluation and Transfer
 515.2080 Trauma Center Designation Delegation to Local Health Departments
 515.2090 Trauma Center Confidentiality and Immunity
 515.2100 Trauma Center Fund
 515.2100 Pediatric Care (Renumbered)

SUBPART I: EMS ASSISTANCE FUND

515.3000 EMS Assistance Fund Administration
 515.3000 A Request for Designation (RFD) Trauma Center
 515.3000 A Request for Renewal of Trauma Center Designation
 515.3000 Minimum Trauma Field Triage Criteria
 515.3000 Standing Medical Orders
 515.3000 Minimum Prescribed Data Elements
 515.3000 Template for In-House Triage for Trauma Centers
 515.3000 Credentials of General/Trauma Surgeons
 515.3000 Credentials of Emergency Department Physicians

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act (210 ILCS 50).

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835,

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effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 23 Ill. Reg. _____, effective _____.

SUPPORT A: GENERAL

Section 515.100 Definitions

For the purposes of this Part:

Act - the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

Advanced Life Support (ALS) Services - an advanced level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes basic life support care, cardiac monitoring, cardiac defibrillation, electrocardiography, intravenous therapy, administration of medications, drugs and solutions, use of adjunctive medical devices, trauma care, and other authorized techniques and procedures as outlined in the Advanced Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)

Aeromedical Crew Member or Watercraft Crew Member or Off-road EMSV Crew Member - an individual, other than an EMS pilot, who has been approved by an EMSV Medical Director for specific medical duties in a helicopter or fixed-wing aircraft, on a watercraft, or on an off-road EMSV used in a Department-certified EMSV Program.

~~Affiliate-Trauma-Hospital--a-hospital-which-participates-in-an-EMS system-but-is-not-a-level-I-or-level-II-Trauma-Center.~~

Alternate EMS Medical Director or Alternate EMSMD - the physician who is designated by the Resource Hospital to direct the ALS/ILS/ILS operations in the absence of the EMS Medical Director.

~~Ambulance - any publicly or privately owned vehicle that is specifically designed, constructed or modified and equipped for, and is intended to be used for, and is maintained or operated for, the emergency transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or the non-emergency medical transportation of persons who require the presence of medical personnel to monitor the individual's condition or medical apparatus being used on such an individual. (Section 3.85 of the Act)~~

Ambulance Service Provider or Ambulance Provider - any individual, group of individuals, corporation, partnership, association, trust, joint venture, unit of local government or other public or private ownership entity that owns and operates a business or service using

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one or more ambulances or EMS vehicles for the transportation of emergency patients.

Associate Hospital - a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, fulfilling the same clinical and communications requirements as the Resource Hospital. This hospital has neither the primary responsibility for conducting training programs nor the responsibility for the overall operation of the EMS System program. The Associate Hospital must have a basic or comprehensive emergency department with 24-hour physician coverage. It must have a functioning Intensive Care Unit and/or a Cardiac Care Unit.

Associate Hospital EMS Coordinator - the EMT-P or Registered Nurse at the Associate Hospital who shall be responsible for duties in relation to the ALS, ILS or BLS System, in accordance with the Department-approved EMS System Program Plan.

Associate Hospital EMS Medical Director - the physician at the Associate Hospital who shall be responsible for the day-to-day operations of the Associate Hospital in relation to the ALS, ILS, or BLS System, in accordance with the Department-approved EMS System Program Plan.

Basic Emergency Department - a classification of a hospital emergency department where at least one physician is available in the emergency department at all times; physician specialists are available in minutes; and ancillary services including laboratory, x-ray and pharmacy are staffed or are "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Code (77 Ill. Adm. Code 250).

Basic Life Support (BLS) Services - a basic level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes airway management, cardiopulmonary resuscitation (CPR), control of shock and bleeding and splinting of fractures, as outlined in a Basic Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)

~~Board Eligible in Emergency Medicine - completion of a residency in Emergency Medicine in a program approved by the Residency Review Committee for Emergency Medicine or the Council on Postdoctoral Training (COPPT) for the American Osteopathic Association (AOA).~~

Certified Registered Nurse Anesthetist or CRNA - a licensed registered professional nurse who has had additional education beyond the registered professional nurse requirements at a school/program

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accredited by the National Council on Accreditation, and passed the certifying exam given by the National Council on Certification, and who by participating in 40 hours of continuing education every two years has been recertified by the National Council on Recertification.

Channel, Half-Duplex - a radio channel that transmits and receives signals, but in only one direction at a time.

CME - continuing medical education.

Comprehensive Emergency Department - a classification of a hospital emergency department where at least one licensed physician is available in the emergency department at all times; physician specialists shall be available in minutes; and ancillary services including laboratory and x-ray are staffed at all times; and pharmacy is staffed or "on-call" at all times in accordance with Section 250-710 of the Hospital Licensing Code (77 Ill. Adm. Code 250).

Department - the Illinois Department of Public Health. (Section 3.5 of the Act)

Director - the Director of the Illinois Department of Public Health or his/her designee. (Section 3.5 of the Act)

Dysrhythmia - a variation from the normal electrical rate and sequences of cardiac activity, also including abnormalities of impulse formation and conduction.

Effective Radiated Power (ERP) - the power gain of a transmitting antenna multiplied by the net power accepted by the antenna from the connected transmitter.

Electrocardiogram (ECG) - a single lead graphic recording of the electrical activity of the heart by a series of deflections that represent certain components of the cardiac cycle.

Emergency - a medical condition of recent onset and severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that urgent or unscheduled medical care is required. (Section 3.5 of the Act)

Emergency Communications Registered Nurse or ECRN - a registered professional nurse, licensed under the Illinois Nursing Act of 1987, who has successfully completed supplemental education in accordance with this Part and who is approved by an EMS Medical Director to monitor telecommunications from and give voice orders to EMS System personnel, under the authority of the EMS Medical Director and in

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accordance with System protocols. (Section 3.80 of the Act) These individuals were formerly called MICNS.

Emergency Medical Dispatcher - a person who has successfully completed a dispatching course meeting or exceeding the National Curriculum of the United States Department of Transportation in accordance with this Part, who accepts calls from the public for emergency medical services and dispatches designated emergency medical services personnel and vehicles. (Section 3.70 of the Act)

Emergency Medical Services (EMS) System or System - an organization of hospitals, vehicle service providers and personnel approved by the Department in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS and/or ALS level pursuant to a System Program Plan submitted to and approved by the Department and pursuant to the EMS Regional Plan adopted for the EMS Region in which the System is located. (Section 3.20 of the Act)

Emergency Medical Services System Survey - a questionnaire that provides data to the Department for the purpose of compiling annual reports.

Emergency Medical Technician-Basic or EMT-B - a person who has successfully completed a course of instruction in basic life support as prescribed by the Department, is currently licensed by the Department in accordance with standards prescribed by the Act and this Part and practices within an EMS System. (Section 3.50 of the Act)

Emergency Medical Technician - Coal Miner - for purposes of the Coal Mine Medical Emergencies Act, an EMT-B, EMT-I or EMT-P who has received training emphasizing extraction from a coal mine.

Emergency Medical Technician-Intermediate or EMT-I - a person who has successfully completed a course of instruction in intermediate life support as prescribed by the Act and this Part and practices within an Intermediate or Advanced Life Support EMS System. (Section 3.50 of the Act)

Emergency Medical Technician-Paramedic or EMT-P - a person who has successfully completed a course of instruction in advanced life support care as prescribed by the Department, is licensed by the Department in accordance with standards prescribed by the Act and this Part and practices within an Advanced Life Support EMS System. (Section 3.50 of the Act)

EMS Administrative Director - the administrator, appointed by the

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Resource Hospital with the approval of the EMS Medical Director, responsible for the administration of the EMS System.

EMS Medical Director or EMSMD - the physician, appointed by the Resource Hospital, who has the responsibility and authority for total management of the EMS System.

EMS Lead Instructor - a person who has successfully completed a course of education as prescribed by the Department in this Part, and who is currently approved by the Department to coordinate or teach education, training and continuing education courses, in accordance with this Part. (Section 3.65 of the Act)

EMS Regional Plan - a plan established by the EMS Medical Director's Committee in accordance with Section 3.30 of the Act.

EMS System Coordinator - the designated individual responsible to the EMS Medical Director and EMS Administrative Director for coordination of the educational and functional aspects of the System program.

EMS System Program Plan - the document prepared by the EMS System Hospital and approved by the Department that describes the EMS System program and directs the program's operation.

First Responder - a person who has successfully completed a course of instruction in emergency first response as prescribed by the Department, who provides first response services prior to the arrival of an ambulance or specialized emergency medical services vehicle, in accordance with the level of care established in the emergency first response course. (Section 3.60 of the Act)

First Response Services - a preliminary level of pre-hospital emergency care that includes cardiopulmonary resuscitation (CPR), monitoring vital signs and controlling of bleeding, as outlined in the First Responder curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)

Fixed-Wing Aircraft - an engine-driven aircraft that is heavier than air, and is supported in-flight by the dynamic reaction of the air against its wings.

Full-Time - on duty a minimum of 36 hours, four days a week.

Health Care Facility - a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed. It does not include "pre-hospital emergency care settings" which utilize EMTs to render pre-hospital emergency care prior to the

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arrival of a transport vehicle, as defined in the Act and this Part. (Section 3.5 of the Act)

Helicopter or Rotorcraft - an aircraft that is capable of vertical take offs and landings, including maintaining a hover.

Hospital - has the meaning ascribed to that term in Section 3 of the Hospital Licensing Act (210 ILCS 85). (Section 3.5 of the Act)

Instrument Flight Rules or IFR - the operation of an aircraft in weather minimums below the minimums for flight under visual flight rules (VFR). (See General Operating and Flight Rules, 14 CFR 91.115 through 91.129.)

Instrument Meteorological Conditions (IMC) - meteorological conditions expressed in terms of visibility, distance from clouds and ceiling, which require Instrument Flight Rules.

Intermediate Life Support (ILS) Services - an intermediate level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes basic life support care, plus intravenous cannulation and fluid therapy, invasive airway management, trauma care, and other authorized techniques and procedures as outlined in the Intermediate Life Support national curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)

Level I Trauma Center - a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2030 of this Part to provide optimal care to trauma patients and to provide all essential services in-house, 24 hours per day.

Level II Trauma Center - a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2040 of this Part to provide optimal care to trauma patients, to provide some essential services available in-house 24 hours per day, and to provide other essential services readily available 24 hours a day.

Limited Operation Vehicle - a vehicle which is licensed by the Department to provide basic, intermediate or advanced life support emergency or non-emergency medical services that are exclusively limited to specific events or locales. (Section 3.85 of the Act)

Local System Review Board - a group established by the Resource Hospital to hear appeals from EMSs or other providers who have been suspended or have received notification of suspension from the EMS Medical Director.

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Mobile Radio - a two-way radio installed in an EMS vehicle, which may not be readily removed.

Morbidity - a negative outcome that is the result of the original trauma and/or treatment rendered or omitted.

911 - an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services including police, fire, medical ambulance and rescue.

Non-emergency Medical Care - medical services rendered to patients whose condition does not meet the Act's definition of emergency, during transportation of such patients to health care facilities for the purpose of obtaining medical or health care services which are not emergency in nature, using a vehicle regulated by the Act and this Part. (Section 3.10 of the Act)

Off-Road Specialized Emergency Medical Services Vehicle or Off-Road EMSV or Off-Road EMS Vehicle - a motorized cart, golf cart, all-terrain-vehicle (ATV), or amphibious vehicle that is not intended for use on public roads.

Participating Hospital - a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, which is not a Resource Hospital or an Associate Hospital.

Pediatric Trauma Patient - trauma patient from birth to 12 years of age.

Physician - any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 90].

Pilot or EMS Pilot - a pilot certified by the Federal Aviation Administration who has been approved by an EMSV Medical Director to fly a helicopter or fixed-wing aircraft used in a Department-certified EMSV Program.

Portable Radio - a hand-held radio that accompanies the user during the conduct of emergency medical services.

Pre-Hospital Care - those emergency medical services rendered to emergency patients for analytic, resuscitative, stabilizing, or preventive purposes, preceding to and during transportation of such patients to hospitals. (Section 3.10 of the Act)

Pre-Hospital Care Provider - a System Participant or any EMT-B, I, P, Ambulance, Ambulance Provider, EMS Vehicle, Associate Hospital, Participating Hospital, EMS System Coordinator, Associate Hospital EMS

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Coordinator, Associate Hospital EMS Medical Director, ECRN or Physician serving on an ambulance or giving voice orders over an EMS System and subject to suspension by the EMS Medical Director of that System in accordance with the policies of the EMS System Program Plan approved by the Department.

Pre-Hospital Registered Nurse or Pre-Hospital RN - a registered professional nurse, licensed under the Illinois Nursing Act of 1987, who has successfully completed supplemental education in accordance with this Part and who is approved by an EMS Medical Director to practice within an EMS System as emergency medical services personnel for pre-hospital and inter-hospital emergency care and non-emergency medical transports. (Section 3.80 of the Act) This individual was formerly called a Field RN.

Regional EMS Advisory Committee - a committee formed within an Emergency Medical Services (EMS) Region to advise the Region's EMS Medical Directors Committee and to select the Region's representative to the State Emergency Medical Services Advisory Council, consisting of at least the members of the Region's EMS Medical Directors Committee, the Chair of the Regional Trauma Committee, the EMS System Coordinators from each resource hospital within the Region, one administrative representative from an associate hospital within the Region, one administrative representative from a participating hospital within the Region, one administrative representative from the vehicle service provider which responds to the highest number of calls for emergency service within the Region, one administrative representative of a vehicle service provider from each System within the Region, one Emergency Medical Technician (EMT)/Pre-Hospital RN from each level of EMT/Pre-Hospital RN practicing within the Region, and one registered professional nurse currently practicing in an emergency department within the Region. Of the two administrative representatives of vehicle service providers, at least one shall be an administrative representative of a private vehicle service provider. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's EMS Advisory Committee. (Section 3.25 of the Act)

Regional EMS Coordinator - the designee of the Chief, Division of Emergency Medical Services and Highway Safety, Illinois Department of Public Health.

Regional EMS Medical Directors Committee - a group comprised of the Region's EMS Medical Directors, along with the medical advisor to a fire department vehicle service provider. For Regions that include a municipal fire department serving a population of over 2,000,000 people, that fire department's medical advisor shall serve on the Committee. For other Regions, the fire department vehicle service

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providers shall select which medical advisor to serve on the Committee on an annual basis. (Section 3.25 of the Act)

Regional Trauma Advisory Committee - a committee formed within an Emergency Medical Services (EMS) Region, to advise the Region's Trauma Center Medical Directors Committee, consisting of at least the Trauma Center Medical Directors and Trauma Coordinators from each Trauma Center within the Region, one EMS Medical Director from a resource hospital within the Region, one EMS System Coordinator from another resource hospital within the Region, one representative each from a public and private vehicle service provider which transports trauma patients within the Region, an administrative representative from each Trauma Center within the Region, one EMT representing the highest level of EMT practicing within the Region, one emergency physician and one Trauma Nurse Specialist (TNS) currently practicing in a Trauma Center. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's Trauma Advisory Committee. (Section 3.25 of the Act)

Registered Nurse or Registered Professional Nurse or RN - a person who is licensed as a professional nurse under the Illinois Nursing and Advanced Practice Nursing Act of 1997 [225 ILCS 65].

Resource Hospital - the hospital with the authority and the responsibility for an EMS System as outlined in the Department-approved EMS System Program Plan. The Resource Hospital, through the EMS Medical Director, assumes responsibility for the entire program, including the clinical aspects, operations and educational programs. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

SEMSV Medical Control Point or Medical Control Point - the communication center from which the SEMSV Medical Director or his or her designee issues medical instructions or advice to the aeromedical, watercraft, or off-road SEMSV crew members.

SEMSV Medical Director or Medical Director - the physician appointed by the SEMSV program who has the responsibility and authority for total management of the SEMSV program, subject to the requirements of the EMS System of which the SEMSV program is a part.

SEMSV Program or Specialized Emergency Medical Services Vehicle Program - a program operating within an EMS System, pursuant to a program plan submitted to and certified by the Department, utilizing specialized emergency medical services vehicles to provide emergency transportation to sick or injured persons.

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Specialized Emergency Medical Services Vehicles or SEMSV - a vehicle or conveyance, other than those owned or operated by the federal government, that is primarily intended for use in transporting the sick or injured by means of air, water, or ground transportation, that is not an ambulance as defined in the Act. The term includes watercraft, aircraft and special purpose ground transport vehicles not intended for use on public roads. (Section 3.85 of the Act)

"Primarily intended", for the purposes of this definition, means one or more of the following:

Over 50 percent of the vehicle's operational (e.g., in-flight) hours are devoted to the emergency transportation of the sick or injured;

The vehicle is owned or leased by a hospital or ambulance provider and is used for the emergency transportation of the sick or injured;

The vehicle is advertised as a vehicle for the emergency transportation of the sick or injured;

The vehicle is owned, registered or licensed in another state and is used on a regular basis to pick up and transport the sick or injured within or from within this State; or

The vehicle's structure or permanent fixtures have been specifically designed to accommodate the emergency transportation of the sick or injured.

Standby Emergency Department - a classification of a hospital emergency department where at least one of the registered nurses on duty in the hospital is available for emergency services at all times; and a licensed physician is "on-call" to the emergency department at all times in accordance with Section 250.710 of the Hospital Licensing Code (77 Ill. Adm. Code 250).

Special-Use Vehicle - any public or privately owned vehicle that is specifically designed, constructed or modified and equipped, and is intended to be used for, and is maintained or operated solely for, the emergency or non-emergency transportation of a specific medical class or category of persons who are sick, injured, wounded or otherwise incapacitated or helpless (e.g., high-risk obstetrical patients, neonatal patients). (Section 3.85 of the Act)

State EMS Advisory Council - a group that advises the Department on the administration of the Act and this Part whose members are appointed in accordance with Section 3.200 of the Act.

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System Participation Suspension - the suspension from participation within an EMS System of an individual or individual provider, as specifically ordered by that System's EMS Medical Director.

Substantial Compliance - meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Substantial Failure - the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Sustained Hypotension - two systolic blood pressures of 90 mmHg five minutes apart or, in the case of a pediatric patient, two systolic blood pressures of 80 mmHg five minutes apart.

Telecommunications Equipment - a radio capable of transmitting and/or receiving voice and electrocardiogram (ECG) signals.

Telemetry - the transmission of data by wire, radio, or other means from remote sources to a receiving station for recording and analysis.

Trauma - any significant injury which involves single or multiple organ systems. (Section 3.5 of the Act)

Trauma Category I - a classification of trauma patients in accordance with Section 515, Appendix C and 515, Appendix F of this Part.

Trauma Category II - a classification of trauma patients in accordance with Section 515, Appendix C and 515, Appendix F of this Part.

Trauma Center - a hospital which: within designated capabilities provides care to trauma patients; participates in an approved EMS System; and is duly designated pursuant to the provisions of the Act. (Section 3.90 of the Act)

Trauma Center Medical Director - the trauma surgeon appointed by a Department-designated Trauma Center who has the responsibility and authority for the coordination and management of patient care and trauma services at the Trauma Center. He or she must have 24-hour independent operating privileges and shall be board certified in surgery with at least one year of experience in trauma care.

Trauma Center Medical Directors Committee - a group composed of the Region's Trauma Center Medical Directors. (Section 3.25 of the Act)

Trauma Coordinator - a registered nurse working in conjunction with

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the trauma medical director. The Trauma Coordinator is responsible for the organization of service and systems necessary for a multidisciplinary approach throughout the continuum of trauma care.

Trauma Nurse Specialist or TNS - a registered professional nurse who has successfully completed education and testing requirements as prescribed by the Department, and is certified in accordance with this Part. (Section 3.75 of the Act)

Trauma Nurse Specialist Course Coordinator (TNSCC) - a registered nurse appointed by the Chief Executive Officer of a hospital designated as a TNS Training Site, who meets the requirements of Section 515.750 of this Part.

Trauma Service - an identified hospital surgical service in a Level I or Level II Trauma Center functioning under a designated trauma director in accordance with Sections 515.2030(c) and 515.2040(c) of this Part.

Unit Identifier - a number assigned by the Department for each EMS vehicle in the State to be used in radio communications.

Vehicle Service Provider - an entity licensed by the Department to provide emergency or non-emergency medical services in compliance with the Act and this Part and an operational plan approved by its EMS System(s), utilizing at least ambulances or specialized emergency medical service vehicles (EMS/V). (Section 3.85 of the Act)

Watercraft - a nautical vessel, boat, aircraft, hovercraft or other vehicle that operates in, on or across water.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 515.125 Incorporated and Referenced Materials

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) Glasgow Coma Scale

Champion HR, Sacco WJ, Carnazzo AJ et al.:

CritCare Med 9(9): 672-676 (1981)

B) Revised Trauma Score, 1999 1993

from Resources for the Optimal Care of the Injured Patient

American College of Surgeons

55 East Erie St.

Chicago, Illinois 60611-2797

C) Abbreviated Injury Score, 1990

American Association for the Advancement

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- of Automotive Medicine
Des Plaines, Illinois 60008
- D) Injury Severity Score
Baker SP, O'Neil B, Hadon W et al.:
Journal of Trauma 14: 187-196 (1974)
- E) International Classification of Diseases,
9th Revision, Clinical Modification (ICD-9-CM)
Alphabetic Index to External Causes of Injury (E-Codes),
Second Printing (1980)
World Health Organization, Geneva, Switzerland and
National Center for Health Statistics
Published by Edwards Brothers, Inc. Ann Arbor, Michigan
- F) Resources for Optimal Care of the Injured Patient (1993)
†1993†
American College of Surgeons
55 East Erie St.
Chicago, Illinois 60611-2797
- G) Pediatric Advanced Life Support (1995)
American Heart Association National Center
7272 Greenville Center
Dallas, Texas 75231
- 2) Federal government publications:
A) Federal Specifications for Ambulance, KKK-A-1822D (November,
1994), United States General Services Administration,
Specifications Section
Room 6654, 7th and D Streets, S.W., Washington, D.C. 20407
- B) United States Department of Transportation, Emergency
Medical Technician - Basic: National Standard Curriculum
(1994), which may be obtained from the Superintendent of
Documents, U.S. Government Printing Office, Washington, D.C.
20402
- C) United States Department of Transportation, Emergency
Medical Technician - Intermediate: National Standard
Curriculum (1985), which may be obtained from the
Superintendent of Documents, U.S. Government
Printing Office, Washington, D.C. 20402
- D) United States Department of Transportation, Emergency
Medical Technician - Paramedic: National Standard
Curriculum (1985), which may be obtained from the
Superintendent of Documents, U.S. Government
Printing Office, Washington, D.C. 20402 (See Sections 515-215(a);
515-500(c) and (e); 515-510(a) and (d); 515-530(c);
515-532(b); 515-810(b) and (c); and 515-850(a) and (b).)
- E) United States Department of Transportation, First Responder:
National Standard Curriculum (1995), which may be obtained
from the Superintendent of Documents, U.S. Government
Printing Office, Washington, D.C. 20402
- F) United States Department of Transportation, EMS Instructor

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- Training Program: National Standard Curriculum (1995),
which may be obtained from the Superintendent of Documents,
U.S. Government Printing Office, Washington, D.C. 20402
- G) United States Department of Transportation, Emergency
Medical Dispatcher: National Standard Curriculum (1995),
which may be obtained from the Superintendent of Documents,
U.S. Government Printing Office, Washington, D.C. 20402
- 3) Federal regulations:
A) 47 CFR 90 (October 1, 1998 1994) - Private Land Mobile Radio
Services
B) Air Taxi Operations and Commercial Operators (14 CFR 135
(January 1, 1998)††1997††, Subparts A, Sections 135.1
through 135.43; B, Sections 135.61 through 135.125; C,
Sections 135.141 through 135.185; D, Sections 135.201
through 135.229; E, Sections 135.241 through 135.247; F,
Section 135.261; J, Sections 135.411 through 135.443)
C) 42 CFR 2A (October 1, 1998 1995) - Confidentiality of
Alcohol and Drug Abuse Patient Records and the
incorporations by reference of federal regulations and the
standards of nationally recognized organizations, refer to the
regulations and standards on the date specified and do not include any
additions or deletions subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this
Part:
1) Federal statutes:
A) U.S. Code 42, the Public Health and Welfare, 42 USC 8582-
300 L-1(a) †1997†
B) Federal Aviation Act of 1958, Sections 307 and 308 (P.L.
85-726, 72 USC 8582-731)
2) State of Illinois statutes:
A) Hospital Emergency Services Act (210 ILCS 80)
B) Hospital Licensing Act (210 ILCS 85)
C) Medical Practice Act of 1987 (225 ILCS 60)
D) ~~The Illinois~~ Nursing and Advanced Practice Nursing Act of
1997 (225 ILCS 65)
E) Code of Civil Procedure (735 ILCS 5)
F) Emergency Telephone System Act (50 ILCS 750)
G) Boat Registration and Safety Act (625 ILCS 45)
H) Open Meetings Act (5 ILCS 120)
I) Illinois Administrative Procedure Act (5 ILCS 100)
J) Head and Spinal Cord Injury Act (410 ILCS 515)
K) Freedom of Information Act (5 ILCS 140)
L) State Records Act (5 ILCS 160)
M) Coal Mine Medical Emergencies Act (410 ILCS 15)
3) State of Illinois regulations:
A) Rules of Practice and Procedure in Administrative Hearings
(77 Ill. Adm. Code 100)
B) Hospital Licensing Requirements (77 Ill. Adm. Code 250)

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C) Aviation Safety (92 Ill. Adm. Code 14.790, 14.792, 14.795)

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART C: EMS SYSTEMS

Section 515.4452100 Pediatric Care

- a) Upon the availability of federal funds for development of an emergency medical services for children program, the Department shall appoint an advisory board to advise the Department on all matters concerning emergency medical service for children and to develop and implement a plan to address identified pediatric areas of need. The Advisory Board shall assist in the formulation of policy to effect the purposes of the Act and this part. The Advisory Board shall consist of 25 members to be appointed by the Director for a term of three years. Membership of the Advisory Board shall include:
 - 1) One Practicing Pediatrician, one pediatric critical care physician, one board certified pediatric emergency physician, neonatologist, and one pediatric rehabilitation physician, to be recommended by the Illinois Chapter of the American Academy of Pediatrics;
 - 2) One pediatric surgeon, to be recommended by the Illinois Chapter of the American College of Surgeons;
 - 3) Two emergency physicians, one to be recommended by the Illinois Chapter of the American College of Emergency Physicians and one to be recommended by the National Association of EMS Physicians;
 - 4) One family practice physician, to be recommended by the Illinois Chapter of the American Academy of Family Physicians;
 - 5) Two registered nurses, one to be appointed upon recommendation of the Illinois Nurses Association and one to be appointed upon recommendation of the Illinois Chapter of the Emergency Nurses Association;
 - 6) Two emergency medical technicians of differing levels, to be appointed, one each, upon recommendation of the Illinois EMT Association and Illinois Fire Fighters Association;
 - 7) An EMS Coordinator recommended by the Northern Illinois and Southern Illinois EMS Coordinators Association;
 - 8) A representative from each of the following agencies: Division of Specialized Care for Children; Illinois State Police; Illinois Fire Chiefs Association; Illinois State Ambulance Association; Illinois Medical Society; SAFEKIDS Coalition; Illinois Hospital Association; Metropolitan Chicago Healthcare Council; Illinois Department of Children and Family Services; Illinois Kiwanis Association; health policy representative; and a child advocate group;
 - 9) A non-voting member from the Division of Emergency Medical

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Services and Highway Safety and the Division of Family Health (IDPH). EMS Regional representation shall be through board members who serve as representatives of other designated constituencies. Such members shall have dual representation status in advising the Illinois Department of Public Health, but shall retain one vote. The Department shall take into consideration Regional representation when making advisory board appointments.

- b) The Advisory Board members with medical backgrounds shall have expertise and interest in emergency or critical care medical services for children. Vacancies on the Advisory Council shall be filled for the unexpired term by appointment of the Director in the same manner as originally filled. The members of the Advisory Board shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties, including travel expenses. A majority of the members of the Advisory Board shall constitute a quorum for the conduct of business of the advisory committee. A majority vote of the members present at a meeting at which a quorum is established shall be necessary to validate any action of the committee.
- c) The Department, with the advice of the Advisory Board, shall address and establish through the EMSC program at least the following:
 - 1) Initial and continuing education programs for emergency medical services personnel which shall include training in the emergency care of infants and children;
 - 2) Guidelines for referring children to the appropriate emergency or critical care medical facilities;
 - 3) Guidelines for pre-hospital, hospital and other pediatric emergency or critical care medical service equipment;
 - 4) Guidelines and protocols for pre-hospital and hospital facilities encompassing all levels of pediatric emergency medical services, hospital and pediatric critical care services, including, but not limited to, triage, stabilization, treatment, transfers and referrals;
 - 5) Guidelines for hospital-based emergency departments appropriate for pediatric care to assess, stabilize, and treat critically ill infants and children and if necessary to prepare the child for transfer to pediatric intensive care unit or pediatric trauma center;
 - 6) Guidelines for pediatric intensive care units, pediatric trauma centers and intermediate care units fully equipped and staffed by appropriately trained critical care pediatric physicians, surgeons, nurses and therapists;
 - 7) An inter-facility transfer system for critically ill or injured children;
 - 8) Guidelines for pediatric rehabilitation units to ensure staffing by rehabilitation specialists and capabilities to provide any service required to assure maximum recovery from the physical,

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emotional and cognitive effects of critical illness and severe trauma;

- 9) Guidelines for the implementation of public education and injury prevention programs throughout the State in conjunction with local fire, public safety and school personnel;
- 10) Guidelines for the collection, analysis and dissemination of pediatric quality improvement information regarding ongoing improvements in the EMS program; and
- 11) Guidelines and protocols for pre-hospital providers and hospital facilities for the treatment, documentation, reporting and professional interactions with family members, and for referrals to social, psychological and rehabilitation services in suspected cases of child maltreatment.

(Source: Section 515.2100 renumbered to Section 515.445 at 23 Ill. Reg. _____, effective _____)

SUBPART H: TRAUMA CENTERS

Section 515.2030 Level I Trauma Center Designation Criteria

- a) ~~The~~Level I Trauma Center ~~Center~~, under the direction of the Level I Trauma Center Medical ~~Director~~ Director, shall be responsible for ~~coordinating and managing the coordination and management of~~ trauma care in the EMS region. This responsibility includes obtaining the cooperation of all Level II Trauma Centers, Participating ~~Affiliate Trauma Hospitals~~, and EMS Systems in the EMS Region. A Level I Trauma Center Medical Director shall be the chairperson of the Regional Trauma Advisory Committee.
- b) The Trauma Center Medical Director shall be a trauma surgeon, board certified in surgery, with at least two years ~~one-year~~ of experience in trauma care and with 24-hour independent operating privileges.
- c) The trauma center shall provide a trauma service, separate from the general surgery service, that which is an identified hospital service functioning under the a designated director and staffed by trauma surgeons with one year of experience in trauma, and who are available in-house 24 hours a day with immediate response.
 - 1) Trauma surgeons shall have 10 hours of trauma-related CME per year.
 - 2) ~~The~~ Trauma surgeon requirement may be fulfilled by residents with a minimum of four years of general surgery residency training with independent operating room privileges and who have current Advanced Trauma Life Support (ATLS) certification.
 - 3) ~~If~~ The resident is fulfilling the trauma surgeon requirement, the attending physician must be consulted within 30 minutes after the patient's being classified as Category I or II.
 - 4) ~~If~~ The resident is fulfilling the trauma surgeon requirement, it is mandatory that an attending be present for Category I patients

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30 minutes after the decision to operate is made.

- 5) ~~The~~ trauma surgeon, resident or surgical subspecialist ~~shall~~ will be consulted when the decision is made to admit a Category II patient. The trauma surgeon or appropriate subspecialist ~~shall~~ will see the patient within 12 hours after Emergency Department (ED) arrival.
- 6) ~~The~~ hospital's quality improvement program shall monitor compliance with this subsection (c).
- 7) ~~The~~ trauma center shall have the option of allowing the ED personnel to determine that a trauma patient with an isolated injury may be treated by one of the services listed in subsection (d) of this Section. The subspecialist is to arrive within the designated time listed in subsection (d) after notification that his or her services are needed at the hospital. ~~Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist within 60 minutes after the notification that his or her services are needed at the hospital.~~

When the need for neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. An isolated injury refers to the transfer of energy to a single specific anatomic body region with no potential for multisystem involvement.
- a) The trauma center shall have the following surgical services within the designated times listed below:
 - 1) On call to arrive at the hospital to treat the patient within 30 minutes after notification that their services are needed at the hospital:
 - A) Cardiothoracic; this requirement may be fulfilled by a cardiothoracic surgeon or a trauma/general surgeon with experience in cardiothoracic surgery for lifesaving procedures; the surgeon must have cardiothoracic privileges;
 - B) Obstetrics; and
 - C) Pediatric surgery as designated by Section 515.2035 of this Part or by transfer agreement.
 - 2) On call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed at the hospital:
 - A) Orthopedic;
 - B) Vascular;
 - C) Ophthalmologic;
 - D) Oral-Dental;
 - E) Otorhinolaryngologic;
 - F) Plastic/maxillofacial;
 - G) Urologic;
 - H) Replantation service, or a transfer agreement; and
 - I) Neurosurgery.

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- 3) Twenty-four hours a day, or a transfer agreement:
- Burn center staffed by Registered Nurses trained in burn care; and
 - Acute spinal cord injury management.
- e) The trauma center shall provide the following nonsurgical services within the designated times:
- Emergency Medicine staffed 24 hours a day in the ED by:
 - A physician who has competency in trauma as demonstrated by:
 - Board certification or board eligibility certification in--Emergency--Medicine by the American Board of Emergency Medicine (ABEM) or the American Osteopathic Board of Emergency Medicine (AOBEM) of the American Osteopathic Association (AOA); and or
 - Ten hours per year of American Medical Association (AMA)--approved Category I or II trauma-related CME; or
 - A physician who was working in the emergency department of a trauma center, as of January 1, 2000, and who had completed 12 months of internship, followed by at least 7000 hours of hospital-based Emergency Medicine over at least a 60-month period (including 2800 hours within one 24-month period), which the physician completed any hospital-based Emergency Medicine hours.
 - Completion of 12 months of internship, followed by--at least--7000 hours of hospital-based Emergency Medicine over at least a 60-month period (including 2800 hours within one 24-month period) within one 24-month period, verified in writing by the hospital(s) at which the internship and subsequent hours were completed, and continuing medical education totaling 50 hours for each post-internship year--in which--the physician--completed--any--hospital--based Emergency Medicine hours--(the physician may attend less than 50 hours--in--any given year--provided the total number averages 50 hours per year of--practice) or
 - Completion of--of--a--residency program--in--Emergency Medicine--approved by the--Residency Review Committee for--Emergency Medicine or the Council on Postdoctoral Training (FCPP)-for the AOA--and
- B) An osteopathic physician certified by the AOBEM of the AOA:
- The anesthesiology service or department shall be supervised by anesthesiologists. "Supervise", for the purposes of this subsection, means to manage, control, and direct the services performed, including being present in the trauma center and immediately available for consultation while the services are being performed.
 - Anesthesiology services shall be available 24 hours a day

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- in-house.
- Direct patient care services may be performed by an anesthesiologist or a certified registered nurse anesthetist (CRNA) acting under the direct supervision of an anesthesiologist.
- 3) Radiology staffed by:
- A technician with the ability to perform a computerized axial tomography (CAT) scan in-house, 24 hours a day.
 - A radiologist with the ability to read CAT scans and perform angiography available within 30 minutes. This requirement may be met by a Post Graduate Year (PGY) II radiology resident or a PGY-3 resident with six months experience in CAT and angiography. Teleradiographic equipment may be used to transmit CAT scans to radiologists off site in lieu of the radiologists' response to the trauma center to read CAT scans. The radiology department shall provide a quality monitoring process to validate the resident's compliance with the time requirements and competency to read CAT scans and perform angiography.
- 4) Intensive Care Medicine Unit (ICU) having available 24 hours a day in-house:
- A physician credentialed by the hospital. This requirement may be fulfilled by second and third year residents who have had intensive care training and are under the supervision of a staff physician possessing full intensive care privileges;
 - One Registered Professional Nurse per shift with two years of ICU or critical care experience and four hours of continuing critical care education per year; Nurses; and
- C) The following equipment:
- Airway control and ventilation devices;
 - Oxygen source with concentration controls;
 - Cardiac emergency cart;
 - Electrocardiograph-oscilloscope-defibrillator;
 - Cardiac output monitoring;
 - Electronic pressure monitoring;
 - Mechanical ventilator-respirators;
 - Pulmonary function measuring devices, i.e., pulse oximetry and CO2 monitoring;
 - Temperature control devices;
 - Drugs, intravenous fluids, and supplies in accordance with the Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically 250.1050, 250.2140, and 250.2710;
 - Intracranial pressure monitoring devices; and
 - Intra-aortic balloon pump capability.
- 5) Laboratory 24 hours a day in-house, providing the following:
- Standard analysis of blood, urine, and other body fluids;
 - Blood typing and cross-matching;

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- C) Coagulation studies;
 D) Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities (see Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically 250.520);
 E) Blood gases and pH determinations;
 F) Microbiology, to include the ability to initiate aerobic and anaerobic cultures on a 24 hour per day basis; and
 G) Drug and alcohol screening.
- 6) Cardiology -- 60 minutes.
 7) Internal Medicine -- 60 minutes.
 8) Neurology -- 60 minutes.
 8) ~~Neurodiology staffed by a radiologist with the ability to read CAT scans and perform angiography --- 30 minutes; this requirement may be met by a PRN radiologist resident or PRN resident with six months experience in CAT and angiography.~~
 9) ~~Pediatrics --- 60 minutes.~~
 9) ~~Postanesthetic recovery capabilities 24 hours a day (may be fulfilled by ICU).~~
 10) ~~Acute hemodialysis capability 24 hours a day or a transfer agreement.~~
- f) The trauma center shall meet the following professional staff requirements:
 1) The ED Director shall be a physician board certified by the ABEM or certified by the AOEM of the AOA;
 2) Each shift in the ED will be staffed by at least one Registered Nurse who has completed a Trauma Nurse Specialist (TNS) Course and is currently recognized in good standing as specified in Section 515.750 of this Part. A back-up policy shall provide for a nurse with experience evidenced by successful completion of an institution orientation to trauma care in addition to a current Trauma Nurse Core Curriculum (TNCC) or 16 hours equivalent in trauma nursing education, approved by the Department, in a four-year period. A back-up schedule must be maintained unless a minimum of two TNS-trained RNs are on duty per shift;
 3) Full-time Trauma Coordinator shall be dedicated solely to the Trauma Program; and
 4) An operating room shall be staffed in-house and available 24 hours a day; and
 5) Staff shall include occupational therapy, speech therapy, physical therapy, social work, nutrition, and psychiatry.
- g) The trauma center shall provide and maintain the following equipment:
 1) Airway control and ventilation equipment including laryngoscopes and endotracheal tubes of appropriate sizes, bag-mask, resuscitator, sources of oxygen, and mechanical ventilator, pulse oximetry and CO₂ monitoring;
 2) Suction devices and equipment (pulmonary and gastric);
 3) Electrocardiograph-oscilloscope-defibrillator;

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- 4) Apparatus to establish central venous pressure monitoring;
 5) All standard intravenous fluids and administration devices including intraosseous;
 6) Sterile surgical instruments or sets for emergency care, such as cricothyrotomy, tracheostomy, thoracotomy, thoracostomy, peritoneal lavage and cut down;
 7) Drugs and supplies necessary for emergency care;
 8) X-ray and CAT scan capability;
 9) Spinal immobilization equipment;
 10) Temporary pacemaker; and
 11) Temperature control device; and
 12) ~~Specialized pediatric resuscitation cart with measuring device in the emergency area.~~
- h) ~~The trauma center must have helicopter landing capabilities approved by State and Federal authorities. (Section 3.95(1) of the Act) The helicopter landing capabilities shall:~~
 1) Comply with the Aviation Safety Rules of the Illinois Department of Transportation (92 Ill. Adm. Code 14, specifically 14.790, 14.792, and 14.795);
 2) Be covered by a favorable airspace determination letter issued by the Federal Aeronautics Administration pursuant to Sections 307 and 309 of the Federal Aviation Act of 1958, and 14 CFR 157 and 14 CFR 77, Subpart D;
 3) Be provided on the campus of the trauma center; and
 4) Out-of-state trauma centers are exempted from this subsection but must provide proof of compliance with their state's rules that govern aviation safety.
- i) The trauma center shall perform focused outcome analyses of its trauma services on a monthly quarterly basis, and shall provide on site or upon request all minutes related to these reviews to at the request of the Department. The analyses shall consist of at least:
 1) Review of all patient deaths, excluding dead on arrival (DOA). Patients must be assigned a status of non-preventable death, potentially preventable death, or preventable death, or cannot be determined, using the American College of Surgeons "Performance Improvement" (Chapter 16, Guidelines for Judgment Regarding Mortality) from "Resources for Optimal Care of the Injured Patient, 1999". Factors contributing to the death must be included in the review according to the American College of Surgeons "Contributing Factors and Guidelines for Assigning Contributing Factors Related to Morbidity/Mortality" from "Resources for Optimal Care of the Injured Patient". A cumulative report of these findings should be kept on site and submitted to the Department upon request.
 2) Review of all morbidities. A morbidity is a negative outcome that is the result of the original trauma and/or treatment rendered or omitted. Factors contributing to the morbidity must

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be included in the review. ~~According to the American College of Surgeons--Contributing Factors and Guidelines for Assigning Contributing Factors Related to--Morbidity/Mortality.~~ A cumulative report of these findings must be presented quarterly to the Region.

3) Review of audit filters. An audit filter is a clinical and/or internal resource indicator used to examine the process of care and to identify potential patient care and/or internal resource problems.

4) ~~All information contained in or relating to any medical audit performed at a trauma center's trauma services pursuant to the Act or by an EMSND or his designee of medical care rendered by system personnel, shall be afforded the same status as is provided information concerning medical studies in Article VIII, Part 21 of the Code of Civil Procedure.~~ (Section 3.110(a) of the Act)

j) Every two years the trauma center shall provide written protocols with the redesignation packet, which shall include the following:

1) Policies ~~the protocols and policies~~ for treating patients in the Level I Trauma Center, which include Trauma Category I and Trauma Category II criteria as required in Section 515-Appendices C and F of this Part;

2) Clinical protocols for the management of the trauma patient if basic resuscitation and management of specific injuries, kept or site and available to the Department upon request;

3) ~~The protocols for transferring trauma patients to more specialized care;~~

4) ~~A policy that a blood alcohol test will be drawn on any motor vehicle crash victim who is believed to have been the driver of the vehicle; and~~

5) ~~A suspension policy for trauma nurse specialists, meeting due process requirements (see Section 315.420).~~

k) Changes to the Trauma Center Plan must be approved by the Department prior to implementation.

l) The practices of the trauma center shall reflect the protocols and policies of the EMS Region and Trauma Category I plan.

m) The resuscitation care of a Trauma Category I or Trauma Category II patient must be documented on a Trauma Flow Sheet, which at minimum contains trauma category classification; time and place of classification (field or in-house); time of arrival of patient to trauma center; notification of surgical specialties and time of arrival to see patient (may exclude isolated injuries for Category II patients).

n) The trauma center shall maintain a job description for the Trauma Center Medical Director that details his/her responsibility and authority for the coordination and management of trauma services.

o) The trauma center shall maintain a job description for the Trauma Coordinator that details his/her responsibility and authority for the

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coordination and management of trauma services.
p) The trauma service must be identified in the facility's budget, with sufficient funds dedicated to support the trauma director and trauma coordinator's positions and to provide for the operation of the trauma registry.

q) ~~The trauma center shall develop a policy that identifies resource limitations that would result in the diversion of a trauma patient to another facility. The hospital shall also develop a policy that identifies what measures will be taken to avoid requesting a resource limitation/bypass (see Section 515.315). This policy shall include notification of procedures for pre-hospital personnel and surrounding trauma centers:~~

1) Such diversion must be reported to the Department by telephone if it occurs during business hours of ~~7--otherwise~~, written notification by fax if diversion must be sent within 24 ~~no--more than--48~~ hours following the diversion.

2) Both forms of notification shall include at minimum:

A) The name of the trauma center;

B) Date and time of resource limitation; and

C) The reason for resource limitation.

~~197~~ The trauma center shall develop a plan for implementing a program of public information and education concerning trauma care for adult and pediatric patients.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 515.2035 Level I Pediatric Trauma Center

a) The Level I Pediatric Trauma Center Director shall advise the Trauma Center Medical Director and shall be a member of the Regional Trauma Advisory Board.

b) The Pediatric Trauma Center Medical Director shall be board certified in pediatric surgery or be a general surgeon, with at least two years of experience in pediatric trauma care, 10 hours per year of trauma-related continuing medical education (CME), and 24-hour independent operating privileges, as evidenced by:

1) care and supervision for 50 pediatric trauma cases per year; and

2) ongoing involvement in pediatric trauma care.
c) The trauma center shall provide a pediatric trauma service separate from the general surgery service. The pediatric trauma service shall be staffed by pediatric trauma surgeons with one year of experience in pediatric trauma or general surgeons with two years of pediatric trauma care experience, who are available in-house 24 hours a day for immediate response and have 24-hour independent pediatric operating privileges.

1) The pediatric trauma surgeon requirement may be fulfilled by residents with a minimum of four years of general surgery

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residency training with independent operating room privileges for pediatric surgery and who have current Advanced Trauma Life Support (ATLS) verification.

- 2) If the resident is fulfilling the pediatric trauma surgeon requirement, the attending pediatric trauma surgeon must be consulted within 30 minutes after the patient's being classified as Category I or II.

- 3) If the resident is fulfilling the pediatric trauma surgeon requirement, it is mandatory that the attending pediatric trauma surgeon be present for Category I patients 30 minutes after the decision to operate is made.

- 4) The pediatric trauma surgeon, resident or surgical subspecialist will be consulted when the decision is made to admit a Category II patient. The pediatric trauma surgeon or appropriate subspecialist will see the patient within 12 hours after the patient arrives in the Emergency Department (ED).

- 5) The hospital's quality improvement program shall monitor compliance with this subsection (C).

- 6) The trauma center shall have the option of allowing the ED personnel to determine that a trauma patient with an isolated injury may be treated by one of the services listed in subsection (d) of this Section. Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist. That subspecialist is to arrive within the time designated in subsection (d) after the notification that his or her services are needed at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. An isolated injury refers to the transfer of energy to a single specific anatomic body region with no potential for multisystem involvement.

- d) The trauma center shall provide the following surgical services within the designated times, by physicians credentialed by the hospital to provide pediatric care:
 - 1) On call to arrive at the hospital to treat the patient within 30 minutes after notification that their services are needed at the hospital:

- A) Cardiothoracic: this requirement may be fulfilled by a cardiothoracic surgeon or a pediatric trauma/general surgeon with experience in pediatric cardiothoracic surgery for lifesaving procedures; the surgeon must have pediatric cardiothoracic privileges; and
- B) Obstetrics.

- 2) On call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed at the hospital:

- 1) Orthopedic;

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- B) Vascular;

- C) Ophthalmologic;

- D) Oral-dental;

- E) Otorhinolaryngologic;

- F) Plastic/maxillofacial;

- G) Urologic;

- H) Replantation service, or a transfer agreement;

- I) Neurosurgery.

- 3) Twenty-four hours a day, or a transfer agreement:

- A) Burn center staffed by registered nurses trained in burn care; and

- B) Acute spinal cord injury management.

- e) The pediatric trauma center shall provide the following nonsurgical services:
 - 1) Department of Pediatrics with a designated Board certified pediatrician in the role of chairman.

- 2) Physician who is certified by the ABPM, by the American Board of Pediatrics and Pediatric Emergency Medicine (ASP/PEM) or ACP/PEM with two years of ongoing daily involvement in daily pediatric trauma care and 10 hours per year of trauma-related CME.

- 3) Anesthesiology Services:
 - A) The anesthesiology service or department shall be supervised by pediatric anesthesiologists. "Supervisor," for the purposes of this subsection (e)(3)(A), means to manage, control and direct the services performed, including being present in the trauma center and immediately available for consultation while the services are being performed.

- B) Pediatric anesthesiology services as credentialed by the hospital available 24 hours a day in-house.

- C) Direct patient care services may be performed by a pediatric anesthesiologist or a certified registered nurse anesthetist (CRNA) with experience in pediatric anesthesia acting under the direct supervision of a pediatric anesthesiologist.

- 4) Radiology staffed by:
 - A) A technician with the ability to perform a computerized axial tomography (CAT) scan in-house, 24 hours a day.

- B) A radiologist with the ability to read CAT scans and perform angiography available within 30 minutes. This requirement may be met by a Post Graduate Year (PGY) II radiology resident with six months experience in CAT and angiography. Tele-radiographic equipment may be used to transmit CAT scans to radiologists off site in lieu of the radiologists' response to the trauma center to read CAT scans. The radiology department shall provide a quality monitoring process to validate the resident's compliance with the time requirements and competency to read CAT scans and perform angiography.

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- C) A pediatric radiologist, on staff to provide a quality improvement process to validate interpretation of pediatric films.
- 5) Pediatric intensive care unit having available 24 hours a day:
- A physician credentialed by the hospital. This requirement may be fulfilled by pediatric or general surgery residents at the second or third year level or by pediatric or surgical critical care fellows who have had pediatric intensive care training and are under the supervision of a staff physician possessing full pediatric intensive care privileges;
 - One Registered Professional Nurse per shift with pediatric experience, documented by two years in pediatric intensive care and four hours of continuing pediatric education per year; and
 - The following pediatric equipment:
 - Airway control and ventilation devices;
 - Oxygen source with concentration controls;
 - Cardiac emergency cart;
 - Electrocardiograph-oscilloscope-defibrillator;
 - Cardiac output monitoring;
 - Electronic pressure monitoring;
 - Mechanical ventilator-respirators;
 - Pulmonary function measuring devices, i.e., pulse oximetry and CO₂ monitoring;
 - Temperature control devices;
 - Drugs, intravenous fluids, and supplies in accordance with the Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically 250.1050, 250.2140, and 250.2710; and
 - Intracranial pressure monitoring devices.
- 6) Laboratory 24 hours a day in-house, providing the following:
- Standard analysis of blood and urine, and other body fluids using micro-sampling techniques;
 - Blood typing and cross-matching;
 - Coagulation studies;
 - Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities (see Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically 250.520);
 - Blood gases and pH determinations;
 - Microbiology, to include the ability to initiate aerobic and anaerobic cultures on a 24 hour per day basis; and
 - Toxicology screening.
- 7) A board-certified pediatrician shall be available within 60 minutes after notification.
- 8) Pediatric cardiology 60 minutes after notification.
- 9) Neurology - 60 minutes after notification.

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- Postanesthetic recovery capabilities 24 hours a day (may be fulfilled by a pediatric ICU).
 - Acute hemodialysis capability 24 hours a day.
 - Open heart capability.
- f) The trauma center shall meet the following professional staff requirements:
- The ED Director shall be a physician board certified by the ABDM or ABP/PEM or certified by the AOBEM;
 - Each shift in the ED shall be staffed by at least one registered nurse who has completed a Trauma Nurse Specialist Course and is currently recognized in good standing as specified in Section 515.750 of this Part. A back-up policy shall provide for a nurse with experience evidenced by successful completion of an institution orientation to trauma care in addition to a current APLS, Pediatric Advanced Life Support (PALS) or Emergency Nurses Pediatric Course (ENPC) or 16 hours equivalent in trauma nursing education, approved by the department, in a four-year period. A back-up schedule must be maintained;
 - Full-time Trauma Coordinator dedicated solely to the Trauma Program;
 - An operating room shall be staffed in-house and available 24 hours a day; and
 - Occupational therapy, speech therapy, physical therapy, social work, child protective services, nutrition and pediatric psychiatry.
- g) The trauma center shall provide and maintain the following equipment:
- Airway control and ventilation equipment including laryngoscopes and endotracheal tubes of appropriate sizes, bag-mask, resuscitator, sources of oxygen, mechanical ventilator, CO₂ monitoring and pulse oxymeter;
 - Suction devices and equipment (pulmonary and gastric);
 - Electrocardiograph-oscilloscope-defibrillator, pacemaker;
 - Apparatus to establish central venous pressure monitoring;
 - All standard intravenous fluids and administration devices;
 - Sterile surgical instruments or sets for emergency care, such as cricothyrotomy, tracheostomy, thoracotomy, thoracostomy, cut down, peritoneal lavage, intraosseous;
 - Drugs and supplies necessary for emergency care;
 - X-ray and CAT scan capability;
 - Spinal immobilization equipment;
 - Temperature control devices;
 - Pediatric control devices;
 - Pediatric measuring device;
 - Scale; and
 - Specialized pediatric resuscitation cart in the emergency area.
- h) A Level I Trauma Center seeking pediatric trauma center designation shall meet requirements for designation as a Level I Pediatric Trauma Center (see Section 515.2030 of this Part).

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(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 515.2040 Level II Trauma Center Designation Criteria

- a) A Level II Trauma Center, under the direction of a Level II Trauma Center Medical Director, shall be responsible for providing trauma care in accordance with the EMS System Program Plan.
- b) The Trauma Center Medical Director shall be a trauma surgeon, board certified in surgery, with at least two years one-year of experience in trauma care and with 24-hour independent operating privileges.
- c) The trauma center shall provide a trauma service, separate from the general surgery service, that which is an identified hospital service functioning under the designated director and staffed by trauma surgeons with one year of experience in trauma, and who will arrive at the hospital to treat the trauma patient within 30 minutes after the patient's being classified as a Category I trauma patient.
 - 1) The trauma surgeons shall have ten hours of trauma-related CME per year.
 - 2) A backup schedule shall be established for a trauma surgeon who has other clinical responsibilities while on call for trauma surgery.
 - 3) The trauma surgeon requirement may be fulfilled by residents with a minimum of four years of general surgery residency training and current ABMS verification.
 - 4) If the resident is fulfilling the trauma surgeon requirement, the attending physician must be consulted within 30 minutes after the patient's being classified as Category I or II.
 - 5) If the resident is fulfilling the trauma surgeon requirement, it is mandatory that an attending be present for patients undergoing operative procedures by the time the surgery begins.
 - 6) The trauma surgeon, resident or surgical subspecialist will be consulted when the decision is made to admit a Category II patient. The trauma surgeon or appropriate subspecialist will see the patient within 12 hours after ED arrival.
 - 7) The hospital's quality improvement program shall monitor compliance with this subsection (c).
 - 8) The trauma center shall maintain a call schedule that identifies at least a primary and back-up surgeon, each listed by surgeon's name.
 - 9) The trauma center shall have the option of allowing the ED personnel to determine that a trauma patient with an isolated injury may be treated by one of the services listed in subsection (d) or (e) of this Section. The subspecialist must arrive within the time frame listed in subsection (d) or (e) after notification that his or her services are needed at the hospital. Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist within 60 minutes after the

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notification that his or her services are needed at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. An isolated injury refers to the transfer of energy to a single specific anatomic body region with no potential for multisystem involvement.

- d) The trauma center shall have the following surgical services on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed:
 - 1) Cardiothoracic; this requirement may be fulfilled by a cardiothoracic surgeon or a trauma/general surgeon with experience in cardiothoracic surgery for lifesaving procedures; the surgeon must have cardiothoracic privileges;
 - 2) Obstetrics;
 - 3) Orthopedic; and
 - 4) Urologic.
- e) The trauma center shall have the following surgical specialties on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed. These services may be provided by written transfer agreement. These services must be provided according to subsection (c)(7) of this Section for isolated injuries when the trauma surgeon is not required to respond:
 - 1) Neurosurgical;
 - 2) Ophthalmologic;
 - 3) Oral-Dental;
 - 4) Otorhinolaryngologic;
 - 5) Replantation;
 - 6) Plastic/Maxillofacial;
 - 7) Burn center staffed by Registered Nurses trained in burn care;
 - 8) Acute spinal cord injury management; and
 - 9) Pediatric surgery as designated by Section 515.2045 of this Part.
- f) The trauma center shall provide the following nonsurgical services within the designated times:
 - 1) Emergency Medicine staffed 24 hours a day in the ED by:
 - A) A physician who has competency in trauma as demonstrated by:
 - i) Board certification or board eligibility by the ABEM or the AOBEM; and or
 - ii) Ten hours per year of AMA-approved Category I or II trauma-related CME; or
 - B) A physician who was working in the emergency department of a trauma center as of January 1, 2000, and who had completed 12 months of internship, followed by at least 7000 hours of hospital-based Emergency Medicine over at least a 60-month period (including 2800 hours within one 24-month period), and CME totaling 50 hours for each post-internship year in which the physician completed any hospital-based Emergency

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Medicine Hours.

- 1177 Completion--of-12-months-of-internship--followed-by-at-least-7600-hours-of-hospital-based-Emergency-Medicine-over-at-least-a-60-month-period-including-2800-hours-within-one-24-month-period--verified-in-writing-by the-hospital--at-which-the-internship-and-subsequent hours-were-completed--and-continuing-medical-education in-Emergency-Medicine--totalling--50--hours--for-each post-internship-year--in-which-the-physician-completed any--hospital-based-Emergency-Medicine-hours--(the physician may attend less than 50 hours in any given year--provided-the-total-number-averages-50-hours-per year-of-practice)--or
- 1178 Completion-of-a-residency-in-Emergency-Medicine--in-a residency-program--approved--by--the-Residency-Review Committee-for-Emergency-Medicine--or--the-Council-on Postdoctoral-Training-(COPDT)--for-the-AGA--and

B) An osteopathic physician certified by the AOBEM of the AGA:

2) Anesthesiology Services:

- A) Anesthesiology services shall be in compliance with the Hospital Licensing Act and the Hospital Licensing Requirements, 77 Ill. Adm. Code 250.1410. Staff shall be on call to arrive at the hospital to administer anesthesia within 30 minutes after notification that their services are needed at the hospital.
- B) Direct patient care services may be performed by an anesthesiologist or a CRNA.

3) Laboratory -- 24 hours a day in-house, providing the following:

- A) Standard analysis of blood, urine, and other body fluids;
 B) Blood typing and cross-matching;
 C) Coagulation studies;
 D) Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities (see Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Section 250.520);
 E) Blood gases and pH determinations;
 F) Microbiology, to include the ability to initiate aerobic and anaerobic cultures on a 24 hour per day basis; and
 G) Drug and alcohol screening.

4) Radiology staffed by:

- A) A technician with the ability to perform a CAT scan available within 30 minutes; and
 B) A radiologist with the ability to read CAT scans and perform angiography available within 60 minutes. This requirement may be met by a PGY I radiology resident or PGY I resident with six months experience in CAT and angiography. The radiology department shall provide a quality monitoring process to validate the resident's compliance with the time

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requirements and competency to read CAT scans and perform angiography. Tele-radiographic equipment may be used to transmit CAT scans off site in lieu of the radiologist's response to the trauma center to read CAT scans.

5) Cardiology -- 60 minutes.

6) Internal Medicine -- 60 minutes.

7) Neurology

8) Postanesthetic recovery capability staffed and available within 30 minutes may be fulfilled by ICU.

9) Intensive Care Medicine Unit having available the following:

- A) A physician credentialed by the hospital and available within 30 minutes. This requirement may be fulfilled by second and third year residents who have had intensive care training and are under the supervision of a staff physician possessing full intensive care privileges;

B) One Registered Professional Nurse per shift with two years ICU experience and four hours of continuing critical care education per year. Nurses--4-hours-a-day-in-the-intensive-care-unit--and

C) The following equipment 24-hours-a-day-in-house:

- i) Airway control and ventilation devices;
 ii) Oxygen source with concentration controls;
 iii) Cardiac emergency cart;
 iv) Electrodiograph-oscilloscope-defibrillator;
 v) Temperature control devices;
 vi) Drugs, intravenous fluids, and supplies in accordance with the Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Sections 250.1050, 250.2140, and 250.2710; and

vii) Mechanical ventilator-respirators;
 viii) Pulmonary function measuring devices (i.e., pulse oximetry, CO[2] monitoring);

ix) Temperature control devices; and

x) Drugs, intravenous fluids and supplies in accordance with Hospital Licensing Requirements (77 Ill. Adm. Code 250, specifically Sections 250.1050, 250.2140, and 250.2710).

109) Pediatrics -- 60 minutes.

11) Acute hemodialysis capability 24 hours a day or a transfer agreement.

g) The trauma center shall meet the following professional staff requirements:

- 1) The ED Director shall be a physician board certified by the ABEM, or certified by the AOBEM of the AGA; a--physician--who--has-completed--12-months--of--internship--followed-by-60-months-plus-7600-hours-of-hospital-based-Emergency-Medicine--(2800-of-the-7600-hours-must-be-completed-within-one-24-month-period)--and-50-hours-of-continuing-medical-education-in-Emergency-Medicine--for--each

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complete--year--of--practice--or--a physician who has completed a residency program approved by the Residency Review Committee--for Emergency Medicine--or--by the AHA?

- 2) Nurse who has completed a Trauma Nurse Specialist Course and is currently recognized in good standing as specified in Section 515.750 of this Part. A back-up policy shall provide for a nurse with experience evidenced by TNC or 16 hours equivalent in trauma nursing education, approved by the Department, in a four-year period. A back-up schedule must be maintained unless a minimum of two TNS-trained RNs are on duty per shift;

3) A full-time Trauma Coordinator dedicated solely to the Trauma program; and

- 4) An operating room shall be staffed and available within 30 minutes 24 hours a day; and-

5) Occupational therapy, speech therapy, physical therapy, social work, nutrition, and psychiatry.

- h) The trauma center shall provide and maintain the following equipment:

- 1) Airway control and ventilation equipment including laryngoscopes and endotracheal tubes of appropriate sizes, bag-mask, resuscitator, sources of oxygen, and mechanical ventilator; pulse oximetry and CO2 monitoring;

- 2) Suction device;

- 3) Electrocardiograph-oscilloscope-defibrillator;

- 4) Apparatus to establish central venous pressure monitoring;

- 5) All standard intravenous fluids and administration devices, including intraosseus;

- 6) Sterile surgical sets of procedures standard for ED, such as cricothyrotomy, tracheostomy, thoracotomy, peritoneal lavage and cut down;

- 7) Blastic-lavage equipment;

- 7) Drugs and supplies necessary for emergency care;

- 8) X-ray and CAT scan capability, available within 30 minutes;

- 9) Spinal immobilization equipment;

- 10) Temporary pacemaker; and

- 11) Temperature control device; and

- 12) Specialized pediatric resuscitation with measuring device cart in the emergency area.

AGENCY NOTE: A Braslow tape will meet this requirement.

- i) The trauma center must have helicopter landing capabilities approved by State and Federal authorities. (Section 3.100(j) of the Act). The helicopter landing capabilities shall:

- 1) Comply with the Aviation Safety Rules of the Illinois Department of Transportation (92 Ill. Adm. Code 14, specifically Sections 14.750, 14.792 and 14.795);

- 2) Be covered by a favorable airspace determination letter issued by the Federal Aeronautics Administration pursuant to Sections 307 and 309 of the Federal Aviation Act of 1958, and 14 CFR 157 and

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14 CFR 77, Subpart D; and

- 3) Be provided on the campus of the trauma center. Out-of-state trauma centers are exempted from this subsection (i) but must comply with their state's rules that govern aviation safety.

- j) The trauma center shall perform focused outcome analyses of its trauma services on a monthly quarterly basis and shall provide all minutes related to these reviews on site or at the request of the Department. The analyses shall consist of at least:

- 1) Review of all patient deaths, excluding dead on arrival (DOA). Patients must be assigned a status of non-preventable death, potentially preventable death, or preventable death, or cannot be determined, using the American College of Surgeons "Performance Improvement" (Chapter 19, Guidelines-for-judgment--Regarding Mortality--from Resources for the Optimal Care of the Injured Patient, 1999). Factors contributing to the death must be included in the review according to the American College of Surgeons--Contributing-Factors-and-Guidelines-for-Assigning Contributing-Factors-Related-to-Morbidity/Mortality--from Resources-for-the-Optimal-Care-of-the-Injured-Patient; A cumulative report of these findings shall be available on site and upon request by the Department.

- 2) Review of all morbidities. A morbidity is a negative outcome that is the result of the original trauma and/or treatment rendered or omitted. Factors contributing to the morbidity must be included in the review according to the American College of Surgeons--Contributing-Factors-and-Guidelines-for-Assigning Contributing-Factors-Related-to-Morbidity/Mortality--from Resources-for-the-Optimal-Care-of-the-Injured-Patient; A cumulative report of these findings must be presented quarterly to the Region.

- 3) Review of audit filters. An audit filter is a clinical and/or internal resource indicator used to examine the process of care and to identify potential patient care and/or internal resource problems.

- 4) All information contained in or relating to any medical audit performed of a trauma center's trauma services pursuant to the Act, or by an EMSHD or his designee of medical care rendered by system personnel, shall be afforded the same status as is provided information concerning medical studies in Article VIII, Part 21 of the Code of Civil Procedure. (Section 3.110(a) of the Act).

- k) Every two years the trauma center shall provide to the Department written protocols concerning the following:

- 1) Policies for treating the treatment-of-trauma patients in the trauma center, which includes Trauma Category I and Trauma Category II criteria as required in Section 515. Appendices C and F of this Part;

- 2) Clinical protocols for management of the trauma patient in basic resuscitation and management of specific injuries. Protocols are

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to be kept on site and available to the Department upon request;
 3) The transfer of trauma patients to the Level I Trauma Center serving the EMS Region or a more specialized level of care;
 4) A policy that blood alcohol will be drawn on a motor vehicle crash victim who is believed to have been the driver of the vehicle;

5) A suspension policy for trauma nurse specialists meeting due process requirements (see Section 515.420).

1) Changes to the Trauma Center Plan must be approved by the Department prior to implementation.

m) The practices of the trauma center shall reflect the protocols and policies of the EMS Region and Trauma Center Plan.

n) The resuscitation care of a Trauma Category I or Trauma Category II patient must be documented on a Trauma Flow Sheet, which at minimum contains trauma category classification; time and place of classification (field or in-house); time of arrival of patient to trauma center; notification of surgical specialties and time of arrival to see patient (may exclude isolated injuries for Category II patients).

o) The trauma center shall maintain a job description for the Trauma Center Medical Director, which details his/her responsibility and authority for the coordination and management of trauma services.

p) The trauma center shall maintain a job description for the Trauma Coordinator, which details the responsibility and authority for the coordination and management of trauma services.

q) The trauma service must be identified in the facility's budget with sufficient funds dedicated to support, at a minimum, the trauma director and trauma coordinator positions and to provide for operation of the trauma registry.

r) The trauma center shall develop a policy that identifies situations that would result in trauma bypass. The hospital shall also develop a policy that identifies what measures will be taken to avoid requesting a resource limitation/bypass (see Section 515.315). This policy shall include notification of procedures for pre-hospital personnel and surrounding trauma centers.

1) Such diversion must be reported to the Department by telephone if it occurs during business hours or otherwise written notification of diversion must be sent within 24 no more than 48 hours following the diversion.

2) Both forms of notification shall include at minimum:

- A) The name of the trauma center;
- B) Date and time of resource limitation; and
- C) The reason for resource limitation.

r) The trauma center shall develop a plan for implementing a program of public information and education concerning trauma care for adult and pediatric patients.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 515.2045 Level II Pediatric Trauma Center

a) The Level II Pediatric Trauma Director shall advise the Trauma Center Medical Director and shall be a member of the Regional Trauma Advisory Board.

b) The Pediatric Trauma Center Medical Director shall be a pediatric trauma surgeon or a board certified general surgeon with at least two years of experience in pediatric trauma care, board certification in pediatric surgery, at least one year of experience in pediatric trauma care, 10 hours per year of trauma-related CME, and 24-hour independent operating privileges, as evidenced by either:

- 1) responsibility for 50 pediatric trauma cases per year; or
- 2) both:
 - A) responsibility for 10 percent of the total number of pediatric trauma cases at the trauma center per year; and
 - B) ongoing involvement in pediatric trauma care.

c) The trauma center shall provide a pediatric trauma service separate from the general surgery service. The pediatric trauma service shall be staffed by pediatric trauma surgeons who have one year of experience in trauma, who have 24-hour independent operating privileges, and who will arrive at the hospital to treat the trauma patient within 30 minutes after the patient's being classified as a Category I trauma patient.

1) The pediatric trauma surgeon requirement may be fulfilled by residents with a minimum of four years of pediatric surgery residency training and who have current ATRS verification.

2) If the resident is fulfilling the pediatric trauma surgeon requirement, the attending pediatric trauma surgeon must be consulted within 30 minutes after the patient's being classified as Category I or II.

3) If the resident is fulfilling the pediatric trauma surgeon requirement, it is mandatory that the attending pediatric trauma surgeon be present for Category I patients undergoing operative procedures by the time the surgery begins.

4) The pediatric trauma surgeon, resident or surgical subspecialist shall be consulted when the decision is made to admit a Category II patient. The pediatric trauma surgeon or appropriate subspecialist shall see the patient within 12 hours after ED arrival.

5) The hospital's quality improvement program shall monitor compliance with this subsection (c).

6) The trauma center shall maintain a call schedule that identifies at least a primary and back-up pediatric surgeon with each surgeon listed by name.

7) The trauma center shall have the option of allowing the ED personnel to determine that a trauma patient with an isolated

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injury may be treated by one of the services listed in subsection (d) or (e) of this Section. Any patient meeting the definition of isolated injury requires consultation with the appropriate subspecialist. That subspecialist is to arrive within the time designated in subsection (d) after the notification that his or her services are needed at the hospital. When the need for neurosurgical intervention has been identified, the neurosurgeon must arrive and be available in a fully staffed operating room within 60 minutes after the identification of need for operative intervention. An isolated injury refers to the transfer of energy to a single specific anatomic body region with no potential for multisystem involvement.

d) The trauma center shall provide the following surgical services by physicians who are credentialed by the hospital to provide pediatric care, and who are on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed:

1) Cardiothoracic: this requirement may be fulfilled by a cardiothoracic surgeon or a pediatric trauma/general surgeon with experience in pediatric cardiothoracic surgery for lifesaving procedures; the surgeon must have pediatric cardiothoracic privileges;

2) Obstetrics;

3) Orthopedic; and

4) Urologic.

e) The trauma center shall have the following surgical specialties by physicians who are credentialed by the hospital to provide pediatric care and who are on call to arrive at the hospital to treat the patient within 60 minutes after notification that their services are needed. These services may be provided by written transfer agreement. These services must be provided according to subsection (c)(7) of this Section for isolated injuries when the trauma surgeon is not required to respond:

1) Neurosurgical or two years experience in pediatric neurosurgery;

2) Ophthalmologic;

3) Oral-dental;

4) Otorhinolaryngologic;

5) Replantation;

6) Plastic/maxillofacial;

7) Burn center staffed by registered nurses trained in burn care; and

f) Acute spinal cord injury management.

g) The pediatric trauma center shall provide the following non-surgical services within the designated times:

1) Emergency Medicine staffed 24 hours a day in the ED by a physician who is certified by the ABEM, ABP/PEM or AOBEM with two-year ongoing involvement in daily pediatric trauma care, and 10 hours per year of trauma-related CME.

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2) Anesthesiology Services:

A) Anesthesiology services shall be in compliance with the Hospital Licensing Act and the Hospital Licensing Requirements, 77 Ill. Adm. Code 250.1410. Staff shall be on call to arrive at the hospital to administer anesthesia within 30 minutes after notification that their services are needed at the hospital.

B) Direct patient care services may be performed by an anesthesiologist or a CRNA with experience in pediatric anesthesia under the direct supervision of an anesthesiologist.

3) Laboratory 24 hours a day in-house, providing the following:

A) Standard analysis of blood, urine, and other body fluids;

B) Blood typing and cross-matching;

C) Coagulation studies;

D) Comprehensive blood bank or access to a community central blood bank and adequate hospital storage facilities (see Hospital Licensing Requirements, 77 Ill. Adm. Code 250.1410);

E) Blood gases and pH determinations;

F) Microbiology, to include the ability to initiate aerobic and anaerobic cultures on a 24 hour per day basis; and

G) Toxicology screening.

4) Department of Pediatrics with board certified pediatrician in the role of Chairman, and a board certified pediatrician shall be available within 60 minutes after notification that his or her services are needed.

5) Radiology staffed by:

A) A technician with the ability to perform a CAT scan available within 30 minutes after notification;

B) A radiologist with the ability to read CAT scans and perform angiography available within 60 minutes. This requirement may be met by a PG II radiology resident with six months experience in CAT and angiography. The radiology department shall provide a quality monitoring process to validate the resident's compliance with the time requirements and competency to read CAT scans and perform angiography.

C) Tele-radiographic equipment may be used to transmit CAT scans off site in lieu of the radiologist's response to the trauma center to read CAT scans; and

D) Improvement process to validate interpretation of pediatric films.

6) Pediatric radiology 60 minutes after notification.

7) Postanesthetic recovery capability staffed and available within 30 minutes (may be fulfilled by pediatric ICU).

9) ICU having available the following:

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- A) A physician credentialed by the hospital and available within 30 minutes. This requirement may be fulfilled by second and third year residents who have had intensive care training and are under the supervision of a staff physician possessing full intensive care privileges;
- B) One Registered Professional Nurse per shift in the ICU, with pediatric experience documented by two years in pediatric care and four hours of continuing pediatric education per year; and
- C) The following pediatric equipment 24 hours a day in-house:
- i) Airway control and ventilation devices;
 - ii) Oxygen source with concentration controls;
 - iii) Pulse oxymetry and CO(2) monitoring;
 - iv) Cardiac emergency cart;
 - v) Electrocardiograph-oscilloscope-defibrillator;
 - vi) Temperature control devices;
 - vii) Drugs, intravenous fluids, and supplies in accordance with the Hospital Licensing Requirements, 77 Ill. Adm. Code 250, specifically Sections 250.1050, 250.2140, and 250.2710; and
 - viii) Mechanical ventilator-respirators.
- 10) Acute hemodialysis capability 24 hours a day, or a transfer agreement.

g) The trauma center shall meet the following professional staff requirements:

- 1) The ED Director shall be a physician board certified by the ABEM, AOBEM, or ABP/PPM.
 - 2) Each shift in the ED will be staffed by at least one Registered Nurse who has completed a Trauma Nurse Specialist Course as specified in Section 515.750 of this Part and Advanced Pediatric Life Support (APLS). A back-up policy shall provide for a nurse with experience evidenced by APLS, Pediatric Advanced Life Support (PALS) or Emergency Nurses Pediatric Course (ENPC) or 16 hours equivalent in trauma nursing education, approved by the Department, in a four-year period. A back-up schedule must be maintained.
 - 3) A full-time Trauma Coordinator dedicated solely to the trauma program.
 - 4) An operating room shall be staffed and available within 30 minutes, 24 hours a day.
 - 5) Occupational therapy, speech therapy, social work, child protective services and psychiatry.
- b) The trauma center shall provide and maintain the following equipment:
- 1) Airway control and ventilation equipment, including laryngoscopes and endotracheal tubes of appropriate sizes, bag-mask resuscitator, sources of oxygen, mechanical ventilator, CO(2) monitoring, and pulse oxymetry;
 - 2) Suction device;

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- 3) Electrocardiograph-oscilloscope-defibrillator, pacemaker;
 - 4) Apparatus to establish central venous pressure monitoring;
 - 5) All standard intravenous fluids and administration devices;
 - 6) Sterile surgical sets of procedures standard for ED, such as cricothyrotomy, tracheostomy, thoracotomy, cut down, peritoneal lavage, intraosseous;
 - 7) Drugs and supplies necessary for emergency care;
 - 8) X-ray and CAT scan capability, available within 30 minutes;
 - 9) Spinal immobilization equipment;
 - 10) Temperature control devices;
 - 11) Pediatric measuring device;
 - 12) Scale; and
 - 13) Specialized pediatric resuscitation cart in the emergency area.
- 1) A Level II Trauma Center seeking designation as a Pediatric Trauma Center shall be designated as a Level II Pediatric Trauma Center.
- 2) For additional requirements for Level II Pediatric Trauma Centers, see Section 515.2040.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 515.2050 Trauma Center Uniform Reporting Requirements

- a) Each trauma center shall have available to the Trauma Service use of an IBM compatible personal computer capable of handling the software contracted by the Department and that meets the following general standards: 486 microprocessor, 32 megabytes Random Access Memory (RAM), adequate hard drive space to accommodate the trauma center's data files and needs, at least 14.4kbs modem, color monitor, printer and back-up capability. The Department shall provide Trauma Registry software for use by the trauma center. This software shall be used for data collection and shall have a provision to prepare electronic media reports to the Department on a quarterly basis.
- AGENCY NOTE: For example, Windows 95 would meet these requirements.
- b) The trauma center shall provide the following information on each reportable trauma patient:
- 1) Registry Number;
 - 2) Medical Record Number;
 - 3) Name (first and last);
 - 4) Address, City, State, County and Zip Code;
 - 5) EMS Region;
 - 6) Age;
 - 7) Sex;
 - 8) Race;
 - 9) Mechanism of Injury (International Classification of Disease (ICD) 9 E codes - 4 digits);
 - 10) Safety Equipment;
 - 11) Hospital Transfer From and Hospital Transfer To;

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- 12) Vehicle Number for all Transporting Agencies;
- 13) Run Sheet;
- 14) Date Arrived At Scene (only for when pre-hospital transport is involved);
- 15) ED Arrival Date;
- 16) ED Disposition Date;
- 17) Glasgow Coma Scale Components (Eye, Motor, Verbal and Total) in ED;
- 18) First Temperature in ED;
- 19) ED Blood Pressure, Pulse, Respiratory Rate;
- 20) ED Revised Trauma Score;
- 21) ED Triage Category;
- 22) Minimum Field Triage Criteria;
- 23) ED Treatment;
- 24) Blood Alcohol Level in all drivers in motor vehicle crashes;
- 25) Blood Units Administered;
- 26) Physician Type, Notification Time, Arrival time;
- 27) Admitting Service;
- 28) Medical Complications;
- 29) Total ICU Days, Monitored Bed Days and Unmonitored Bed Days;
- 30) Number of Ventilator Days;
- 31) Surgery Performed, Surgery Date;
- 32) Additional Surgeries;
- 33) Abbreviated Injury Scale for each injury;
- 34) Injury Severity Score (ISS) range 1-75;
- 35) Primary Pay Source;
- 36) Discharge Condition and Date;
- 37) Total Hospital Days;
- 38) Crash Record Number;
- 39) Pre-Hospital Record Number;
- 40) Injury Date and Time;
- 41) System Access;
- 42) Scene FIPS Code;
- 43) Work Related;
- 44) Date Arrived at Transferring Hospital;
- 45) Time Arrived at Transferring Hospital;
- 46) Glasgow Coma Scale at Transferring Hospital;
- 47) Systolic Blood Pressure at Transfer In Hospital;
- 48) Respiratory Rate at Transfer In Hospital;
- 49) Care at Transfer In Hospital;
- 50) Date Out of Transfer Hospital;
- 51) Time Out of Transfer Hospital;
- 52) Pre-Hospital Response Minutes;
- 53) Pre-Hospital Scene Minutes;
- 54) Pre-Hospital Transportation Minutes;
- 55) Pre-Hospital Glasgow Total;
- 56) Pre-Hospital Systolic Blood Pressure;
- 57) Pre-Hospital Respiratory Rate;

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- 58) Emergency Department Arrival Time;
 - 59) Drug Screen;
 - 60) Emergency Department Glasgow Coma Scale Total;
 - 61) Minutes Prior to CT Scan;
 - 62) Admit to Physician Number;
 - 63) Time of First Operation;
 - 64) ICD-9-CM Procedure Codes;
 - 65) Unanticipated Operation;
 - 66) Return to Operating Room;
 - 67) ICD-9-Nature of Injury Codes 800-959;
 - 68) Scene City, Address, Zip Code;
 - 69) Vehicle Position of Driver;
 - 70) Pre-Hospital Patient Contact Time;
 - 71) Emergency Department Triage Time;
 - 72) Emergency Department Reason for Transfer;
 - 73) Emergency Department Disposition Deaths;
 - 74) Medical Complications;
 - 75) Hospital Discharge Disposition;
 - 76) Expression;
 - 77) Feeding;
 - 78) Locomotion; and
 - 79) Total Hospital Charges;
 - 80) Rehabilitation Potential, and
 - 81) Organ Donations.
- c) Reportable trauma patients
- 1) A reportable trauma patient is one who was involved in a traumatic event and:
 - A) was transferred to the trauma center from another hospital;
 - B) was transferred from the trauma center to another hospital;
 - C) was admitted to the trauma center as an inpatient;
 - D) was assigned an observation status and had a length of stay greater than 12 hours from time of arrival in the ED;
 - E) was dead on arrival (DOA);
 - F) died in the emergency department (DIE); or
 - G) signed out against medical advice after refusing admission (AMA).
 - 2) A traumatic event is one in which there was a transfer of energy resulting in injury, involving any of the following:
 - A) aircraft;
 - B) watercraft;
 - C) motor vehicles;
 - D) railway;
 - E) recreational vehicles;
 - F) farm machinery;
 - G) animals, including bites;
 - H) explosion;
 - I) falls;
 - J) thermal (including smoke inhalation)/chemical/radiation

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- injuries;
 K) lightning;
 L) weather related (tornado, flood, blizzard) injuries;
 M) struck by falling object;
 N) sports related;
 O) caught between objects;
 P) cutting or piercing instruments or objects;
 Q) firearms;
 R) electric current;
 S) suicide or self-inflicted injury;
 T) homicide;
 U) injury inflicted by others;
 V) hanging; or
 W) strangulation.

d) Illinois trauma registry reporting schedule

Patients Discharged	Report Date
January - March	June 30
April - June	September 30
July - September	December 31
October - December	March 31

e) The trauma center shall have a policy to back up and archive data on a regular basis.

f) Data shall be collected for all trauma patients in the State for each level of injury. Severity Score, mean mortality rate, and standard deviations shall be calculated using standard statistical methods. Trauma centers with mortality rates more than one standard deviation above the mean in three or more ISS levels shall have an in-depth evaluation by the Department prior to renewal of designation. Trauma centers with mortality rates more than two standard deviations above the mean in any ISS level less than 25 shall also be evaluated for compliance with the Act and this part prior to renewal of designation. The Department shall review a trauma center whose annual mortality rate is two standard deviations above the mean.

f) Data collected from individual trauma centers shall be cross-referenced with Vital Records Death Certificates to confirm accuracy.

g) Annual reports shall be prepared by the Department presenting summary data to allow trauma centers to evaluate performance. This data shall have all hospital and patient identifiers removed.

h) All data received by the Department shall be kept confidential. Confidentiality is maintained and is not available to the public.

i) All reports and records made pursuant to the Head and Spinal Cord Injury Act (410 ILCS 515) and maintained by the Department and other appropriate persons, officials and institutions pursuant to the Head and Spinal Cord Injury Act shall be confidential.

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Information shall not be made available to any individual or institution except to:

- Appropriate staff of the Department;
 - Any person engaged in a bona fide research project, with the permission of the Director of Public Health, except that no information identifying the subjects of the reports or the reports shall be made available to researchers unless the Department requests and receives consent for such release pursuant to the provisions of this Section; and
 - The Advisory Council on Spinal Cord and Head Injuries, except that no information identifying the subjects of the reports or the reports shall be made available to the Council unless consent for release is requested and received pursuant to the provisions of this Section. Only information pertaining to head and spinal cord injuries as defined in Section 1 of the Head and Spinal Cord Injury Act shall be released to the Council. (Section 3 of the Head and Spinal Cord Injury Act)
- 2) The Department shall not reveal the identity of a patient, physician or hospital, except that the identity of the patient, parent or guardian, the identity of the physician, and the identity of the hospital may be released upon written consent of the patient, parent or guardian, the identity of the physician, and the identity of the hospital may be released upon written consent of the hospital.
- 3) The Department shall request consent for release from a patient, a physician or hospital only upon a showing by the applicant for such release that obtaining the identities of certain patients, physicians or hospitals is necessary for his bona fide research directly related to the objectives of the Head and Spinal Cord Injury Act. (Section 3 of the Head and Spinal Cord Injury Act)
- 4) Availability of Registry Information
- All requests by medical or epidemiologic researchers for confidential registry data must be submitted in writing to the registry. The request must include a study protocol that contains: objectives of the research; rationale for the research; objectives of the research; literature justifying current research; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians or study subjects, including methods for documenting compliance with 42 CFR 2A, parts 4, ambulance, 6 a-b, 7 a-b; methods for the processing of data; storage and security measures taken to ensure confidentiality of patient identifying information; time frame of the study; a description of the funding source of the study (e.g., federal contract); the curriculum vitae of the principal investigator; and a list of collaborators. In addition, the research request must specify what patient or facility identifying information is needed and

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how the information will be used.

- 2) All requests to conduct research and modifications to approved research proposals involving the use of data that includes patient or facility identifying information shall be subject to a review to determine compliance with the following conditions:
 - A) The request for patient or facility identifying information contains stated goals or objectives;
 - B) The request documents the feasibility of the study design in achieving the stated goals and objectives;
 - C) The request documents the need for the requested data to achieve the stated goals and objectives;
 - D) The requested data can be provided within the time frame set forth in the request;
 - E) The request documents that the researcher has qualifications relevant to the type of research being conducted;
 - F) The research will not duplicate other research already underway using the same registry data when both require the contact of a patient, reporting facility or physician about an individual patient involved in the previously approved concurrent research; and
 - G) Other such conditions relevant to the need for the patient or facility identifying information and the patient's confidentiality rights, because the Department will only release the name of the patient, physician (in accordance with the provisions of this Section) or facility identifying information that is necessary for the research.
- 3) Research Agreements
 - A) The Department will enter into research contracts for all approved research requests. These contracts shall specify exactly what information is being released and how it can be used in accordance with the standards in subsection (c) of this Section. In addition, the researcher shall include an assurance that:
 - i) Use of data is restricted to the specifications of the protocol;
 - ii) All and all data that may lead to the identity of any patient, research subject, physician, other person, or hospital is strictly privileged and confidential and that such data will be kept strictly confidential at all times;
 - iii) All officers, agents and employees will keep all such data strictly confidential; will communicate the requirements of this subsection to all officers, agents, and employees; will discipline all persons who may violate the requirements of this Section; and will notify the Department in writing within 48 hours after any violation of this subsection, including full details of the violation and corrective actions to be

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taken;

- iv) All data provided by the Department pursuant to the contract may only be used for the purposes named in the contract and that any other or additional use of the data may result in immediate termination of the contract by the Department; and
- v) All data provided by the Department pursuant to the contract is the sole property of the Department and may not be copied or reproduced in any form or manner and that all data and all copies and reproduction of the data will be returned to the Department upon termination of the contract.
- B) Any departures from the approved protocol must be submitted in writing and approved by the Director in accordance with subsection (c)(2) of this Section prior to initiation. No patient or facility identifying information may be released by a researcher to a third party.
- 4) The Department shall disclose individual patient or facility information to the reporting facility that originally supplied that information to the Department, upon written request of the facility.
- 3) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part is to be used in the course of medical study under Part 21 of Article 8 of the Code of Civil Procedure (735 ILCS 5). Therefore, this information is privileged from disclosure by Part 21 of Article 8 of the Code of Civil Procedure.
- k) The identity of any facility, or any group of facts that tends to lead to the identity of any person whose condition or treatment is submitted to the Department, shall not be open to public inspection or dissemination. Such information shall not be available for disclosure, inspection or copying under the Freedom of Information Act or the State Records Act. All information for specific research purposes may be released in accordance with procedures established by the Department in this Section.
- l) Every hospital shall provide representatives of the Department with access to information from all medical, pathological, and other pertinent records and logs related to reportable registry information. The mode of access and the time during which this access will be provided shall be by mutual agreement between the hospital and the Department. The Department shall not require hospitals to provide information on cases that are dated more than two years before the Department's request for further information.
- m) Every hospital shall provide access to information regarding specified patients or other patients specified for research studies, related to reportable registry information, conducted by the Department. Any disputes as to access shall be resolved by the hospital and the Department within 30 days after requests for access have been denied.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 515.2060 Trauma Patient Evaluation and Transfer

- a) Patients who are determined in the pre-hospital setting to have sustained hypotension or are victims of cavity penetration of the neck or torso or any other trauma patient as deemed by medical control shall be classified as trauma patients in the field. The trauma surgeon response time begins at the time of field classification. The patient shall be immediately evaluated upon arrival at the ED.
- b) Patients who are not classified in the field must be evaluated within 10 minutes after arrival at the trauma center. This evaluation shall be conducted by the attending ED physician or designee. "Designee", for the purposes of this Section, may refer to ED staff including, but not limited to, a surgeon acting as the ED attending, resident physician, physician assistant, or Registered Nurse. By the time the 10 minute evaluation period has elapsed, the patient must be determined to be a Category I trauma patient (Section 515.2060(C) and F of this Part) or Category II (Section 515.2060(C) or not to have met either Category I or II criteria. A patient cannot be downgraded once a category has been assigned. Upgrade to a Category I or II may occur at any time the patient's condition warrants. The trauma or specialty surgical response time begins at the time of upgrade.
- c) EMS Regions or trauma centers may develop triage criteria that expand Category I and II criteria but may not delete any of the minimal criteria in Section 515.2060(C) of this Part.
- d) The response period for trauma or specialty surgery for Category I or II patients is as specified in Section 515.2030(C), Section 515.2040(C) and Section 515.2060(C) of this Part.
- e) Transfer of trauma trauma patients being transferred to a Level I or Level II facility or to more specialized care shall commence within 30 minutes after patients' arrival, and the patient should be stabilized within the capabilities of the institution before transfer. ~~should be enroute within two hours after arrival when stabilized within the capabilities of the referring institution.~~
- f) The Revised Trauma Score, as specified by the American College of Surgeons, shall be used in all trauma centers. The Revised Trauma Score is determined by using the following criteria:

1) Respiratory Rate	Value	Points
	10-29/Min	4
	>29/Min	3
	6-9/Min	2
	1-5/Min	1
	0	0

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- 2) Systolic Blood Pressure
- | | |
|---------------------|---|
| greater than 89mmHg | 4 |
| 76-89mmHg | 3 |
| 50-75mmHg | 2 |
| 1-49mmHg | 1 |
| no pulse | 0 |
- 3) Glasgow Coma Scale
- | | |
|-------------------------|----------------------|
| A) Eye Opening Response | Points |
| Spontaneous | 4 |
| To Voice | 3 |
| To Pain | 2 |
| None | 1 |
| B) Best Verbal Response | Points |
| Oriented | 5 |
| Confused | 4 |
| Inappropriate Words | 3 |
| Incomprehensible Sounds | 2 |
| None | 1 |
| C) Best Motor Response | Points |
| Obeys Commands | 6 |
| Localizes (Pain) | 5 |
| Withdraws (Pain) | 4 |
| Flexion (Pain) | 3 |
| Extension (Pain) | 2 |
| None | 1 |
| Total GCS | Revised Trauma Score |
| 13-15 | 4 |
| 9-12 | 3 |
| 6-8 | 2 |
| 4-5 | 1 |
| <4 | 0 |
- 4) Revised Trauma Score = Total points 1 + 2 + 3
- g) Each EMS Region may include other criteria in addition to the Revised Trauma Score in defining a trauma patient and specifying where trauma patients should be transported according to the severity of the injury.
- h) The components of Section 515.2060(C) of this Part shall be included in the trauma center policy.

(Source: Amended at 22 Ill. Reg. 11835, effective June 25, 1998)

Section 515.2100 Pediatric Care (Renumber)

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(Source: Section 515.2100 renumbered to Section 515.445 at 23 Ill. Reg. _____, effective _____)

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Section 515. APPENDIX A A Request for Designation (RFD) Trauma Center

a) Name and address of hospital (typed)

- 1) Specify the designation level for which your hospital is applying:
A) Level I _____
B) Level II _____
- 2) The above named facility certifies that each requirement listed in this Request for Designation is met and will be operational by the date of designation.

Typed name CEO/Administrator

Signature CEO/Administrator Date

Typed name Trauma Director

Signature Trauma Director Date

Contact person and phone

- b) Level I Designation Criteria
Provide a Trauma Plan which explains how each of the requirements will be met. Options include provision of services in-house, by transfer agreement or by waiver. Requests for waiver must include the requirement or standards with which it considers compliance to be a hardship and demonstrate how there will be no reduction in the standards of medical care. (Section 3.185 of the Act) The Trauma Plan must be submitted in the order listed in this Appendix A. Each section of the Plan must reference the applicable portion of this Part by subsection number.
1) Table of Organization
Construct a Table of Organization to show the administrative relationships among all departments in the hospital, especially

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as they relate to the trauma service. In addition, please include a separate table that shows the structure of the trauma service. The table must include but is not limited to:

- A) Board of Directors
 - B) Chief Executive Officer
 - C) Department of Surgery
 - D) Trauma Service
 - E) Department of Medicine
 - F) Department of Radiology
 - G) Emergency Department
 - H) Rehabilitation Department
- 2) Trauma Director Requirements
- A) Job Description (Section 515.2030(n))
 - B) Curriculum Vitae (Section 515.2030(b))
- 3) Surgical Services
- A) Description of the Trauma Service (Section 515.2030(c))
 - B) Complete Appendix G Attachments→ to describe the trauma surgeon staffing and availability.
 - C) If general surgery residents are used to fulfill the trauma surgeon requirement, provide a statement regarding the level of training; ATLS verification; independent operating room privileges; and supervision and oversight.
 - D) Provide a statement regarding the ability to meet the requirements for surgical services in Section 515.2030(d)(1)-(1f) and (2)(e). Each surgical service must have a separate statement.
- 4) Non-surgical services and professional staff
- A) Emergency Department Director - Provide board certification (Section 515.2030(f)(1)).
 - B) Emergency Physicians - Complete Appendix H Attachment--2 (Section 515.2030(f)(1)(A)).
 - C) Emergency Medicine Registered Nurse staffing---(Section 515.2030(f)(1)(B) and (2)). Nurse specialty requirements (Section 515.2030(f)(2)). Provide a statement that describes the staffing for each.
 - D) Anesthesiology services - Provide a statement that describes the staffing (Section 515.2030(f)(2)).
 - E) Radiology staff - Describe (Section 515.2030(f)(3)).
 - F) Intensive Care Medicine Unit - Describe bed availability (who has authority to move patients out to allow for admission of new patients; physician responsible for trauma patients; use of residents and nursing staffing (Section 515.2030(g)(4)(A) and (B)). Provide a statement regarding the ability to meet the Intensive Care Unit equipment requirements (Section 515.2030(e)(4)(C)).
 - G) Laboratory - Provide a statement regarding the ability to meet the requirements (Section 515.2030(g)(5)).
 - H) Other staffing and services - Provide a statement regarding

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- 5) Equipment - Provide a statement regarding the trauma center's ability to provide and maintain the equipment listed in Section 515.2030(g)(1)-(12)(f).
 - 6) Helicopter landing - Provide documentation to substantiate the requirements are being met (Section 515.2030(h)(1)-(4)).
 - 7) Medical Audits - Provide the trauma center plan to perform outcome analysis as described in Section 515.2030(i)(1)-(3).
 - 8) Written protocols - Provide protocols as follows:
 - A) Protocols and policies for treating patient (Section 515.2030(j)(1), (2), (4) and (5) (4)(4)-(4)(7)-(4)(f))
 - B) Minimum Trauma Field Triage Criteria (Section 515.2030(j)(1)-(4))
 - C) In-house Triage policy (Section 515.2030(j)(1)-(4))
 - D) Transferring patient to more specialized care (Section 515.2030(j)(3)(4)(f), Section 515.10(b)(e))

- 9) Trauma Flow Sheet - Provide a copy of the facility flow sheet (Section 515.2030(m)(n)).
- 10) Resource limitation policy that meets the requirements of Section 515.2030(g)(1) and (2).
- 11) Trauma Center Uniform Reporting Requirements (Section 515.2050(a)-(d)). Provide a statement which includes:
 - the equipment available to meet the requirements
 - staff committed to support the registry reporting requirement
 - process used to identify reportable cases
 - commitment to meet reporting deadlines
 - software to be used for reporting

- c) Level II Designation Criteria

Provide a Trauma Plan which explains how each of the requirements will be met. Options include provision of services in-house, by transfer agreement or by waiver. Requests for waiver must include the requirement or standards with which it considers compliance to be a hardship and demonstrate how there will be no reduction in the standards of medical care. (Section 3.185 of the Act) Each section of the Trauma Plan must reference the applicable portion of this Part by subsection number.

- 1) Table of Organization

Construct a Table of Organization to show the administrative relationships among all departments in the hospital, especially as they relate to the trauma service. In addition, please include a separate table that shows the structure of the trauma service. The table must include but is not limited to:

 - A) Board of Directors
 - B) Chief Executive Officer
 - C) Department of Surgery
 - D) Trauma Service

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- E) Department of Medicine
 F) Department of Radiology
 G) Emergency Department
- 2) Trauma Director Requirements
 A) Job Description (Section 515.2040(o))
 B) Curriculum Vitae (Section 515.2040(b))
- 3) Surgical Services of the Trauma Service (Section 515.2040(c)(1)-(5)).
- A) Complete ~~Appendix G Attachment--1~~ to describe the trauma surgeon staffing and availability.
 B) If general surgery residents are used to fulfill the trauma surgeon requirement, provide a statement regarding the level of training; ATUS verification; independent operating room privileges; and supervision and oversight.
 C) Provide a statement regarding the ability to meet the requirements for surgical services in Section 515.2040(g)(1)-(4) and (e)(1)-(6) and (g). Each surgical service must have a separate statement.
 D) Non-surgical services and professional staff.
- 4) Emergency Physicians - Complete ~~Appendix H Attachment--2~~ (Section 515.2040(f)(1)(f)).
- A) Emergency Medicine Registered Nurse Staffing--(Section 515.2040(f)(1)(f)) and Trauma Nurse Specialty requirements (Section 515.2040(g)(2)) - Provide a statement that describes the staffing ~~for each~~.
 B) Anesthesiology services - Provide a statement that describes the staffing (Section 515.2040(f)(2)).
 C) Radiology staff - Describe (Section 515.2040(f)(4)).
 D) Intensive Care Medicine Unit - Describe bed availability (who has authority to move patients out to allow for admission of new patients; physician responsible for trauma patients; use of residents and nursing staffing (Section 515.2040(f)(9)(f)(A) and (B)). Provide a statement regarding the ability to meet the Intensive Care Unit equipment requirements (Section 515.2040(f)(9)(f)(C)).
 E) Laboratory - Provide a statement regarding the ability to meet the requirements (Section 515.2040(f)(3)(A)-(G)).
 F) Other staffing and services - Provide a statement regarding the ability to meet requirements (Section 515.2040(f)(5), (6), (7), (9), (10), (11)).
- 5) Equipment - Provide a statement regarding the trauma center's ability to provide and maintain the equipment listed in Section 515.2040(h)(1)-(12).
 6) Helicopter landing - Provide documentation to substantiate the requirements are being met (Section 515.2040(i)(1)-(3)(f)).
 7) Medical Audits - Provide the trauma center plan to perform outcome analysis as described in Section 515.2040(j)(1)-(3).

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- 8) Written protocols - Provide protocols as follows:
 A) Protocols and policies for treating patients (Section 515.2040(k)(1) and (3)).
 B) Minimum Trauma Field Triage Criteria (Section 515-Appendix C).
 C) In-house Triage policy (Section 515-Appendix F).
 D) Transferring patients to more specialized care (Section 515.2040(k)(3)(f), Section 515.2060(e)).
 9) Trauma Flow Sheet - Provide a copy of the facility flow sheet (Section 515.2040(n)).
 10) Resource limitation policy that meets the requirements of Section 515.2040(q)(1) and (2).
 11) Trauma Center Uniform Reporting Requirements (Section 515.2050(a)-(d)) - Provide a statement which includes:
 - the equipment available to meet the requirements
 - staff committed to support the registry reporting requirement
 - process used to identify reportable cases
 - commitment to meet reporting deadlines
 - software to be used for reporting.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 515.APPENDIX C Minimum Trauma Field Triage Criteria

• UNSTABLE VITALS - BP < 90 SYSTOLIC
(PULS. 80 SYSTOLIC OR LOWER) OR CIRCUMFERENCE
MEASUREMENTS FIVE MINUTES APART

YES

MANDATORY NOTIFICATION OF THE
TRAUMA SURGEON FROM THE FIELD

NO

Category I
Blunt Penetrating Trauma With Unstable Vital
Signs And/or:
• Hemodynamic Compromise As Evidenced By
- BP < 90 systolic
- P < 10d - BP < 80 systolic
• Respiratory Compromise as Evidenced By
- Respiratory rate < 10 or > 29
• Altered Mentation as Evidenced By
- Glasgow Coma Scale < 10

YES

• Initiate Field Trauma Treatment Protocols
• Rapid Transport To Trauma Center (1)

Category II

• Penetrating injury of head, neck, torso, groin
• Two or more body regions with potential life or limb
threatening trauma with - 20% TBSA Burn
• Impalement above wrist or ankle
• Uniparesis and/or sensory deficit above the wrist
and ankle
• Flail chest

NO

Category II

Mechanism of Injury

• Ejection from motor vehicle
• Fall from height into passenger compartment
• Falls > 20 feet

YES

NO

• Initiate Field Trauma Treatment Protocols And
Transport to Closest Hospital

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- (1) > 25 minutes from Trauma Center, transport to nearest participating
affiliate trauma hospital.
> 30 minutes from Trauma Center or participating affiliate trauma
hospital, transport to nearest hospital.
> 45 minutes from Trauma Center or participating affiliate trauma
hospital in a rural area where there is no comprehensive emergency
department available, transport to the nearest hospital.
* Adapted from Trauma-Care-System-Guidelines-ACBP-1992-and-Resources
for-Optimal-Care-of-the-Injured-Patient-ACBP-1993---it-is-expected
that-each-Region-will-expand-upon-this-minimal-triage-set-based-on
individual-assessments-resources-and-outcome.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

- 1) > 25 minutes from Trauma Center, transport to nearest affiliate participating trauma hospital

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Section 515. APPENDIX G Credentials of General/Trauma Surgeons

- == List each surgeon by name ==
- == Check appropriate categories regarding trauma care experience and operating room privileges ==
- == Signed by CEO/Hospital Administrator ==

Surgeon Name	General	Medical	Has independent related CWE	10 hrs. per year trauma- trauma- CWE
Has one year trauma care experience:				
Director -				
two years				
OR privileges				

Signature _____
Hospital CEO/Administrator _____

<u>Typed Name</u>	
<u>Hospital CEO/Administrator</u>	
(Source: Added	at 2

Date _____, effective _____.

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Section 515.APPENDIX H Credentials of Emergency Department Physicians

- List each physician by name
- Check full time or part time
- Check all credentials that qualify physician for Illinois Trauma Center Emergency Department

Physician Name	Full Time	Part Time	*ABEM Certified or Eligible	*Emergency Medicine Residency	ABEM and 10 hrs. per yr. trauma CME

Signature
Hospital CEO/Administrator

<u>Typed Name</u>	
Hospital CEO/Administrator	2
(Source: Added at	2

Date _____, effective _____

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1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits

2) Code Citation: 92 Ill. Adm. Code 1040

3) <u>Section Number</u>	<u>Proposed Action</u>
1040.29	Amendment
1040.33	Amendment
1040.50	Amendment
1040.52	Amendment
1040.101	Amendment

4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to incorporate previously enacted legislation.

6) Will this proposed rulemaking replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other amendments pending on this Part: No

10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:

Robert W. Mueller
Assistant General Counsel
2701 South Dirksen Parkway
Springfield IL 62723
217/782-5356

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

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B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda in which this rulemaking was summarized: July 1999

The full text of the Proposed Amendment begins on the next page.

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1040

CANCELLATION, REVOCATION OR SUSPENSION OF LICENSES OR PERMITS

- Section
1040.10 Court to Forward Licenses and Reports of Convictions
1040.20 Illinois Offense Table
1040.25 Suspension or Revocation for Driving Without a Valid Driver's License
1040.29 2 or More Traffic Offenses Committed Within 24 Months by a Person Under the Age of 21 Years
1040.30 3 or More Traffic Offenses Committed Within 12 Months
1040.31 Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32 Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33 Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35 Commission of an Offense Requiring Mandatory Revocation or Discretionary Suspension or Revocation Upon Conviction
1040.36 Suspension for Violation of Restrictions on Driver's License
1040.37 Suspension for Violation of Restrictions on Instruction Permit
1040.38 Commission of a Traffic Offense in Another State
1040.40 Repeated Convictions or Collisions
1040.41 Suspension of Licenses for Curfew Violations
1040.42 Fleeing and Eluding
1040.43 Illegal Transportation
1040.44 Fatal Accident and Personal Injury Suspensions or Occupational
1040.46 Vehicle Emission Suspensions
1040.48 Suspension of License of Commercial Vehicle Driver
1040.50 Driver Remedial Education Course
1040.52 Suspension for Driver's License Classification Violations
1040.55 Release of Information Regarding a Disposition of Court Supervision
1040.60 Offenses Occurring on Military Bases
1040.65 Invalidation of a Restricted Driving Permit
1040.70 Problem Driver Pointer System
1040.75 Cancellation of Driver's License Upon Issuance of a Handicapped Identification Card
1040.80 Rescissions
1040.100 Reinstatement Fees
1040.101 Bankruptcy
1040.102 Returned Checks Actions

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration

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Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3532, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 11 Ill. Reg. 70659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective April 13, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994; amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13634, effective July 10, 1998; amended at 23 Ill. Reg. _____, effective _____.

Section 1040.29 2 or More Traffic Offenses Committed Within 24 Months by a Person Under the Age of 21 Years

a) For purposes of this Section, the following definitions shall apply:

"Auto Emissions Suspension" - suspension for failing to have a vehicle tested or failing a vehicle inspection as required pursuant to Section 13A-101 of the Vehicle Emissions Inspection Law of the Illinois Vehicle Code [625 ILCS 5/13A-101].

"Conviction" - adjudication of guilty as defined in Section 6-100 of the Illinois Vehicle Code [625 ILCS 5/6-100].

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"Curfew Violation Suspension" - suspension of a minor for operating a vehicle on a highway during a prescribed hour without an adult or as otherwise provided in accordance with Section 1 of the Child Curfew Act [720 ILCS 555/1], in accordance with Section 6-206(a)(13) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(13)].

"Department" - Department of Driver Services within the Office of the Secretary of State.

"Failure to Appear Suspension" - suspension for failing to pay a fine or appear in court following the issuance of a traffic ticket as provided in Section 6-306.3 of the Illinois Vehicle Code [625 ILCS 5/6-306.3].

"Family Financial Responsibility Suspension" - suspension in accordance with Sections 7-702 and 7-704 of the Illinois Safety and Family Financial Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/7-702 and 7-704].

"Financial Responsibility Suspension" - suspension in accordance with Sections 7-304 and 7-305 of the Illinois Safety and Family Financial Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/7-304 and 7-305].

"Miscellaneous Suspensions" - suspensions for safety responsibility, family financial responsibility, financial responsibility, warrant parking/traffic, auto emissions, failure to appear, curfew or unsatisfied judgment.

"Prior Suspension or Revocation" - suspension or revocation or extension of a suspension or revocation that appears on the driving record.

"Safety Responsibility Suspension" - suspension in accordance with Section 7-205 or 7-208 of the Illinois Safety and Family Financial Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/7-205 or 7-208].

"Unsatisfied Judgment Suspension" - suspension in accordance with Sections 7-303 and 7-313 of the Illinois Safety and Family Financial Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/7-303 and 7-313].

"Warrant Parking/Traffic Suspension" - suspension for arrest warrants issued for failure to pay fines for traffic or parking violations.

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- b) A person who has been convicted of 2 or more points assigned traffic offenses as listed in Section 1040.20 of this Part (Type Action 87, 97 or 99), excluding any conviction previously used as a basis for suspension/revocation action, which were committed on or after January 1, 1998, while the person was under the age of 21, within a 24 month period, shall be identified by the Department for review for possible driver's license and driving privilege suspension or revocation pursuant to Section 6-206(a)(36) (prior to 7/30/1998 authority was 6-206(a)(34)) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(36)(34)] provided no more than 6 months have elapsed between the effective date of the suspension or revocation and the last conviction date.
- 1) If a person's driving record indicates no prior suspensions, excluding miscellaneous suspensions or revocations within a 7 year period from the effective date of the suspension or revocation, the following point table shall be used in computing whether an order of suspension or revocation is to be entered and recorded to the driving record:

POINT TABLE

Number of Points

Action

0 through 9	No Action
10 through 34	1 month Suspension
35 through 49	3 month Suspension
50 through 64	6 month Suspension
65 through 79	12 month Suspension
Over 79	Revocation

- 2) If the person has had 1 prior suspension or 1 prior revocation within a 7 year period from the effective date of the suspension or revocation, excluding those defined as Miscellaneous Suspensions, the following point table shall be used in computing whether an order of suspension or revocation is to be entered and recorded to the driving record:

POINT TABLE

Number of Points

Action

0 through 9	No Action
10 through 34	2 month Suspension
35 through 49	6 month Suspension
50 through 79	12 month Suspension
Over 79	Revocation

- 3) If the person has had 2 or more prior suspensions or revocations

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within a 7 year period from the effective date of the suspension or revocation. The following point table shall be used in computing whether an order of suspension or revocation is to be entered and recorded to the driving record;

POINT TABLE

Number of Points	Action
0 through 9	No Action
10 through 79	12 month Suspension
Over 79	Revocation

4) If the person has in effect a suspension for safety responsibility, financial responsibility, family financial responsibility or an unsatisfied judgment and at least 1 of the 2 or more convictions referenced in subsection (b) above were committed after the effective date of the suspension for safety responsibility, financial responsibility, family financial responsibility or an unsatisfied judgment, the following point table shall be used in computing whether an order of suspension or revocation is to be entered to the driving record:

POINT TABLE

Number of Points	Action
0 through 9	No Action
10 through 79	12 month Suspension
Over 79	Revocation

5) Notice of suspension or revocation will be given pursuant to Sections 6-209 and 2-114 of the Illinois Vehicle Code [625 ILCS 5/6-209 and 2-114].

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1040.33 Suspension or Revocation of Driver's License/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device

a) For purposes of this Section, the following definitions shall apply:
 "Authorized holder" - an individual issued a person-with-disabilities license plate under Section 3-616 of the Illinois Vehicle Code or an

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individual issued a person-with-disabilities parking decal or device under Section 11-1301.1 of the Illinois Vehicle Code [625 ILCS 5/3-616 and 11-1301.1]

"Department" - Driver Services Department within the Office of the Secretary of State

"False information" - any incorrect or inaccurate information concerning the name, date of birth, social security number, driver's license number, physician certification or any other information required on the application for a person-with-disabilities license plate or parking decal or device that falsifies the content of the application

"Fictitious person-with-disabilities license plate or parking decal or device" - any person-with-disabilities license plate or parking decal or device that has been issued by the Secretary of State or an authorized unit of local government that was issued based upon false information contained on the required application

"Fraudulent person-with-disabilities license plate or parking decal or device" - any person-with-disabilities license plate or parking decal or device that was issued by the Secretary of State or an authorized unit of local government by the Secretary of State or an authorized unit of local government

"Person-with-disabilities license plate or parking decal or device-making implement" - any implement specially designed or primarily used in the manufacture, assembly or authentication of a person-with-disabilities license plate or parking decal or device issued by the Secretary of State or a unit of local government

"Unlawfully altered person-with-disabilities license plate or parking permit or device" - any person-with-disabilities license plate or parking permit or device issued by the Secretary of State or an authorized unit of local government that has been physically altered or changed in such manner that false information appears on the license plate or parking decal or device

b) The Secretary of State has discretionary authority to suspend or revoke the driving privileges of any person upon receipt of evidence that such person has been convicted of one or more of the following offenses listed in Section 6-206 of the Illinois Vehicle Code [625 ILCS 5/6-206]:

1) If such person has knowingly possessed any fictitious or unlawfully altered person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.5(b)(1) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(1)], the

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Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 authority was Section 6-206(a)(35)) ‡34‡ of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(34)‡34‡]:

ACTION TABLE

1st Offense	1 month Suspension
2nd Offense	6 months Suspension
3rd or Subsequent Offense	Revocation; or

- 2) If such person has knowingly issued or assisted in the issuance of, by the Secretary of State or unit of local government, a fictitious person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.5(b)(2), the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(2)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) ‡34‡ of the Illinois Vehicle Code:

ACTION TABLE

1st Offense	1 month Suspension
2nd Offense	6 months Suspension
3rd or Subsequent Offense	Revocation; or

- 3) If such person has knowingly altered any person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.5(b)(3) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(3)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) ‡34‡ of the Illinois Vehicle Code:

ACTION TABLE

1st Offense	1 month Suspension
2nd Offense	6 months Suspension
3rd or Subsequent Offense	Revocation; or

- 4) If such person manufactures, possesses, transfers, or provides any documentation used in the application process whether real or

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fictitious, for the purpose of obtaining a fictitious person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.5(b)(4) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(4)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) ‡34‡ of the Illinois Vehicle Code:

ACTION TABLE

1st Offense	1 month Suspension
2nd Offense	6 months Suspension
3rd or Subsequent Offense	Revocation; or

- 5) If such person knowingly provides any false information to the Secretary of State or a unit of local government in order to obtain a person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.5(b)(5) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(5)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) ‡34‡ of the Illinois Vehicle Code:

ACTION TABLE

1st Offense	1 month Suspension
2nd Offense	6 months Suspension
3rd or Subsequent Offense	Revocation; or

- 6) If such person knowingly transfers a person-with-disabilities license plate or parking decal or device to another person for the purpose of exercising the privileges granted to an authorized holder of a person-with-disabilities license plate or parking decal or device under the Illinois Vehicle Code in the absence of the authorized holder in violation of Section 11-1301.5(b)(6) of the Illinois Vehicle Code [625 ILCS 5/11-1301.5(b)(6)], the Department shall take the following action pursuant to Section 6-206(a)(34) (prior to 7/30/98 the authority was Section 6-206(a)(35)) ‡34‡ of the Illinois Vehicle Code:

ACTION TABLE

1st Offense	1 month Suspension
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- 2nd Offense
- 3rd or Subsequent Offense
- 6 months Suspension
Revocation; or
- 7) If such person has knowingly possessed any fraudulent person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.6(b)(1) of the Illinois Vehicle Code [625 ILCS 5/11-1301.6(b)(1)], the Department shall take the following action pursuant to Section 6-206(a)(35) [prior to 7/30/98, the authority was Section 6-206(a)(36)] [367 of the Illinois Vehicle Code (625 ILCS 5/6-206(a)(36))]:

ACTION TABLE

- 1st Offense
- 2nd Offense
- 3rd or Subsequent Offense
- 1 month Suspension
6 months Suspension
Revocation; or
- 8) If such person has knowingly possessed without authority any person-with-disabilities license plate or parking decal or device-making implement in violation of Section 11-1306.6(b)(2) of the Illinois Vehicle Code [625 ILCS 5/11-1306.6(b)(2)], the Department shall take the following action pursuant to Section 6-206(a)(35) [prior to 7/30/98, the authority was Section 6-206(a)(36)] [367 of the Illinois Vehicle Code:

ACTION TABLE

- 1st Offense
- 2nd or Subsequent Offense
- 12 months Suspension
Revocation; or
- 9) If such person knowingly duplicates, manufactures, sells or transfers any fraudulent or stolen person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.6(b)(3) of the Illinois Vehicle Code [625 ILCS 5/11-1301.6(b)(3)], the Department shall take the following action pursuant to Section 6-206(a)(35) [prior to 7/30/98, the authority was Section 6-206(a)(36)] [367 of the Illinois Vehicle Code:

ACTION TABLE

- 1st Offense
- 2nd or Subsequent Offense
- 12 months Suspension
Revocation; or

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- 10) If such person has knowingly assisted in the duplication, manufacture, sales or transfer of any fraudulent or stolen person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.6(b)(4) of the Illinois Vehicle Code [625 ILCS 5/11-1301.6(b)(4)], the Department shall take the following action pursuant to Section 6-206(a)(35) [prior to 7/30/98, the authority was Section 6-206(a)(36)] [367 of the Illinois Vehicle Code:

ACTION TABLE

- 1st Offense
- 2nd or Subsequent Offense
- 12 months Suspension
Revocation; or
- 11) If such person has advertised or distributes a fraudulent person-with-disabilities license plate or parking decal or device in violation of Section 11-1301.6(b)(5) of the Illinois Vehicle Code [625 ILCS 5/11-1301.6(b)(5)], the Department shall take the following action pursuant to Section 6-206(a)(35) [prior to 7/30/98, the authority was Section 6-206(a)(36)] [367 of the Illinois Vehicle Code:

ACTION TABLE

- 1st Offense
- 2nd or Subsequent Offense
- 12 months Suspension
Revocation.
- c) The sources of acceptable proof of the offenses described in subsection (b) about agents, Department of Vehicle Services, applications, driver's license, identification, government entity documents and law enforcement correspondence, reports.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1040.50 Suspension of License of Commercial Vehicle Driver

- a) For purposes of this Section, the following definitions shall apply:
- "Cancellation" - the annulment or termination by formal action of the Secretary of a person's driver's license because the licensee is no longer entitled to such license in accordance with Section 1-110 of the Illinois Vehicle Code and Sections 6-201 and 6-206(c)(3) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/1-110, 6-201 and 6-206(c)(3)].

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"Commercial Vehicle" - any vehicle operated for the transportation of person or property in the interference of any other person's use of the highway, for hire or for-hire, but not including a commuter van, vehicle used in a ride-sharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially.

"Disqualification" - a withdrawal of the privilege to drive a commercial motor vehicle.

"Driver Improvement Course" - an organized remedial activity approved by the Driver Services Department for improving the driving habits of certain apprehended drivers. Its course shall include written and practical tests, and a group session of instruction and shall not exceed 2 sessions or a total of 9 hours of instruction.

"Farm Vehicle" - every motor vehicle designed and used primarily as a farm implement for drawing wagons, plows, mowing machines and other implements of husbandry, and every implement of husbandry which is self-propelled.

"Hearing Officer" - any person designated by the Secretary of State to preside at and hear complaints pursuant to the rules established by the Office of the Secretary of State.

"Implement of Husbandry" - every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry, provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds shall be included hereunder.

"Restricted Driving Permit for Occupational Driving" - a restricted driving permit is that document which grants and specifies limited privileges to drivers of commercial vehicles as an occupation who have had their full driving privileges suspended. The restricted driving permit is valid only when in the immediate possession of the driver to whom it is issued.

"Revocation" - the termination by formal action of the Secretary of State of a license or privilege to operate a motor vehicle on the public highways of this State. It includes the denial of renewal or restoration except that an application for a new license may be presented and acted upon by the Secretary after the expiration of at least 1 year after the date of revocation.

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"Secretary of State" - the Secretary of State of Illinois.

"Suspension" - the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on public highways, for a period specifically designated by the Secretary.

b) If the Secretary of State suspends the driver's license of a person under Section 6-206(a)(2) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(2)] and the person drives a commercial vehicle in connection with his/her regular occupation, he/she may qualify for a Restricted Driving Permit for Occupational Driving based on the following requirements:

- 1) the individual must have been issued or have qualified for a valid Illinois driver's license prior to issuance of the Restricted Driving Permit for Occupational Driving;
- 2) no outstanding reinstatement fees or failure to pay requirements are effective on the Illinois driving record;
- 3) no effective or pending suspensions, revocations, cancellations or disqualifications on the individual's Illinois driving record;
- 4) the suspension period does not exceed twelve (12) months;
- 5) the suspension was the result of 3, 4 or 5 offenses which were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation; the driver would not qualify for a Restricted Driving Permit for Occupational Driving;
- 6) the individual's occupation must be full time, and one which involves driving a commercial vehicle on a regular basis. Part-time employment or a person renting a commercial vehicle under a short term lease shall not qualify;
- 7) the individual must successfully complete a Driver Improvement Occupational Driving course.

8) The individual shall complete and sign an affidavit prescribed by the Secretary of State setting forth his/her eligibility as a driver of a commercial vehicle and such other information as required by the Secretary of State. The affidavit shall also be notarized by a Notary Public or signed by a Secretary of State Hearing Officer;

9) The individual must submit a notarized letter from the employer on the employer's letterhead verifying employment;

- 10) surrender current valid Illinois driver's license.
- 11) Operation of the following vehicles shall not be deemed to be the operation of a commercial vehicle:
 - 1) Farm vehicle;

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- b) The fee collected by the Department for reinstatement of a driver's license following a suspension or revocation shall be as prescribed by Section 6-118 of the Illinois Driver Licensing Law of the Illinois Vehicle Code ~~as now or hereafter amended~~ ~~431r-Stat--1991--chr-95-1/2--par-6-118~~ (625 ILCS 5/6-118).
- c) The fee collected by the Department for concurrent actions requiring reinstatement fees shall be for the action requiring the highest rate that would be charged for a single action if each action were considered separately.
- d) The fee collected by the Department for reinstatement of a driver's license following a suspension or revocation for a second or subsequent violation of Section 11-501.1, Section 11-501 (including local ordinances), or Section 9-3 of the Criminal Code, or any combination thereof shall be as prescribed by Section 6-118 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-118].
- se) If a suspension or revocation is rescinded, the Department shall not collect a reinstatement fee for that specific action.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Safety Responsibility Law
- 2) Code Citation: 92 Ill. Adm. Code 1070
- 3) Section Number:
1070.10 Proposed Action
1070.30 Amendment
1070.40 Amendment
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Article VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Art VIII].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to incorporate previously enacted legislation.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:

Robert W. Mueller
Assistant General Counsel
2701 South Dirksen Parkway
Springfield IL 62723
217/782-5356

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None

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C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page.

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TITLE 92: TRANSPORTATION

CHAPTER II: SECRETARY OF STATE

PART 1070

ILLINOIS SAFETY RESPONSIBILITY LAW

Section

1070.10 Forms of Security

1070.20 Future Proof

1070.30 Installment Agreements

1070.40 Disposition of Security

1070.50 Failure to Satisfy Judgment

1070.60 Release From Liability

1070.70 Incomplete Unsatisfied Judgment

1070.80 Driver's License Restriction for Exclusive Operation of Commercial Vehicles

1070.90 Dormant and Dead Judgments

1070.100 Bankruptcy

1070.110 Illinois Safety and Family Financial Responsibility Law

AUTHORITY: Implementing and authorized by the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 17 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. 398, effective December 20, 1995; amended at 20 Ill. Reg. 7956, effective May 30, 1996; amended at 23 Ill. Reg. _____, effective _____.

Section 1070.10 Forms of Security

a) For purposes of this Section, the following definitions shall apply:

"Bank Draft" - a negotiable instrument that which contains an unconditional promise to pay a certain sum of money that which is payable on demand or at a definite time to the bearer or to order as provided in Section 3-104 of the Uniform Commercial Code [810 ILCS 5/3-104] ~~###Rev-Stat-1995;ch-267;par-3-1847~~.

"Cashier Check" - a check that which is the primary obligation of the issuing bank as indicated in Section 4-211 of the Uniform Commercial Code [810 ILCS 5/4-211] ~~###notes-Rev-Stat-1987;ch-267;par-4-211~~. It is drawn by the bank itself and issued by an

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authorized officer of the bank.

"Certified Check" - a check of a depositor drawn on a bank of which the holder of the check procures certification and the drawer and all prior endorser are discharged as provided in Section 3-411 of the Uniform Commercial Code [810 ILCS 5/3-411] ~~§§11-Rev-Stat-1987-ch-267-par-3-411~~. The words "accepted or certified" are on the check along with the date and the signature of a bank official.

"Department" - Department of Driver Services of the Office of the Secretary of State.

- b) The Department shall accept as security to establish proof of financial responsibility following an accident for purposes of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7] ~~§§11-Rev-Stat-1987-ch-95-1/2-par-7-101-et-seq~~ the following: certified checks, money orders, bank drafts, cashier checks, surety bonds, and cash. The amount of security required is determined by the Illinois Department of Transportation. The person depositing security shall stipulate on a designated form supplied by the Secretary of State on whose behalf the deposit is made.
- c) A surety bond shall not be accepted by the Department as a deposit of security as required by Section 7-201 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-201] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-201~~ unless the following conditions are met:

- 1) The form is completed.
 - 2) The surety company is authorized to do business in Illinois or a power of attorney is executed in accordance with Section 7-203 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-203] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-203~~.
 - 3) The bond specifies who it is to cover.
 - 4) The bond signatures are notarized.
 - 5) The bond is accompanied by a power of attorney.
- d) If a surety bond is accepted by the Department and the surety company later does not pay a judgment upon demand of the Department, the Department shall not accept any further bonds from the surety company until payment is made.
- e) If a surety company has failed and ceased operations by order of a court, the Department shall notify the interested party(ies) that his/her driver's license and/or registration shall be suspended in ~~thirty-4~~ 30 days if he/she does not deposit the security required by Section 7-201 of the Illinois Safety Responsibility Law.
- f) If a person's security requirement has not been terminated pursuant to Section 7-210 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-210] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-210~~, he/she shall be eligible to file an affidavit for

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termination of surety bond two-4 2+ years after the date of the suspension accident attesting that ~~two~~ 2 years have elapsed since the said suspension accident occurred, no suits for claims for damages and/or personal injuries have been instituted and are ~~is~~ now pending, nor does any judgment rendered remain unsatisfied.

- g) All security deposits shall be deposited at the following address: Department of Driver Services, Safety and Financial Responsibility Section, 2701 South Dirksen Parkway, Springfield, IL ~~61102~~ 62723. No security shall be considered deposited until it is received by the Department at the above mentioned address in one of the above mentioned forms of security specified in subsection (b) of this Section hereof.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1070.30 Installment Agreements

- a) An installment agreement shall not be accepted by the Department for purposes of Section 7-208(b) of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-208(b)] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-208(b)~~ unless the following conditions are met:

- 1) The information on the agreement is complete. It must include the identity of the parties, date of the accident, location of the accident, how often the payments will be made, the total amount of payments, and to whom the payment will be made.
 - 2) The agreement is notarized or witnessed by one person.
 - 3) The acceptance portion of the agreement is signed by the interested party or his/her authorized representative.
- b) A notice of default on an installment agreement shall not be accepted by the Department for purposes of Section 7-208(c) of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-208(c)] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-208(c)~~ unless the following conditions are met:
- 1) The installment agreement is on file with the Department.
 - 2) The notice of default is signed by the person who signed the acceptance portion of the installment agreement.
 - 3) A person who defaults on an installment agreement shall have his/her driver's license and registration or non-residents operating privileges suspended until the conditions in Section 7-208 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-208] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-208~~ have been met. ~~An agreement-in-default shall not be reinstated.~~
 - 4) If a person's security requirement has not been terminated pursuant to Section 7-210 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-210] ~~§§11-Rev-Stat-1985-ch-95-1/2-par-7-210~~, he/she shall be eligible to file an affidavit for

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termination of suspension two-(2) years from the date of the original suspension or two-(2) years from the date of the default, whichever is later. The affidavit for termination of suspension shall be a notarized affidavit from the suspended person stating to the best of his/her knowledge, he/she has not been or is not being sued.

e) A file on an installment agreement following an accident shall be closed by the Department, if the following conditions are met:

- 1) The agreed time and payment schedule have elapsed.
- 2) The Department has not been notified of a default.
- 3) The Department has sent a letter to all interested parties inquiring about the disposition of the agreement allowing the interested parties two-(2) weeks to reply.
- 4) The installment agreement was accepted by the Department at least four-(4) years ago.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1070.40 Disposition of Security

a) For purposes of this Section, the following definitions shall apply:

"Claim" - a demand for something rightfully or allegedly due.

"Claimant" - person or persons making claim.

"Default" - failure to make a payment when due.

"Department" - Department of Driver Services within the Office of the Secretary of State.

"Discharged in Bankruptcy" - a legal order for release from a debt or debts.

"Installment Agreement" - agreement to pay debt in payments pursuant to Section 7-208 of the Illinois Safety and Family Financial Responsibility Law.

"Judgment Creditor" - person who is owed money due to a court judgment in his/her favor.

"Proper Notice" - notice provided by, but not limited to any of the following: Petition in Bankruptcy; Notice of Meeting of Creditors; Schedule A-3 of Schedule of Creditors; Trustee Report of No Assets; Discharge of Bankruptcy; Notice of Automatic Stay; Chapter 13 Wage Earner Plan.

"Release" - to give up or surrender a claim.

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"Security" - deposit made to satisfy any potential judgment or judgments for money damages following an accident as provided in Section 7-201 of the Illinois Safety and Family Financial Responsibility Law.

b) If a person has security deposited with the Department and the Department subsequently receives proper notice that the person has filed a petition for bankruptcy, then the Department shall forward the posted security directly to the bankruptcy court for disbursement during the normal course of the bankruptcy proceedings, and so provide notification to the debtor.

c) If a person has security deposited with the Department and the claim for which the security was deposited has been discharged in bankruptcy without proper notice having been provided the Department, then upon application by the depositor, the security shall be refunded to the depositor if the Department receives documentation representing that the claim for which the security was deposited has been discharged, or the bankruptcy court's order of discharge listing the discharged parties and claim.

d) A person posting a security who wishes to have the security released to a party or parties other than himself/herself shall provide to the Department a notarized letter directing payment to the claimant(s). The person who is to receive the deposit shall send to the Department a notarized release for the amount of the deposit before payment will be made.

e) A security deposit shall be released by the Department after the Department receives a court order directing payment as provided in Section 7-214 of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-214].

f) If a security deposit is refunded because a person enters into an installment agreement and that person later defaults, the Department shall suspend the driving privileges and/or registration of that person until he/she redeposits the original amount of security or meets the other requirements set forth in Section 7-208(c) of the Illinois Safety and Family Financial Responsibility Law.

g) A security deposit shall be refunded if the Department receives a notice of rescind of certification from the Illinois Department of Transportation, or an order of exoneration from the Secretary of State's Department of Administrative Hearings.

h) A security deposit shall also be refunded if the Department receives a certified court order indicating the security deposit should be refunded because the judgment has been satisfied, the case has been dismissed, or the party posting the security is not liable.

i) A security deposit shall be refunded if no legal action has been taken within two-(2) years after the date of the suspension accident and the Department receives a notarized affidavit from the person depositing the security stating that to the best of his/her knowledge, he/she has not been or is not being sued. To verify this, the

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Department shall send the interested party a letter and give him/her two-~~4~~ 2 weeks to respond. If he/she responds that he/she has not sued or does not respond, the Department shall close the case and refund the security deposit. If the interested party responds with a copy of the summons and complaint indicating court action has been initiated within two-~~4~~ 2 years from the date of the ~~suspension~~ accident, the security shall not be refunded to the depositor.

j) Upon application by a judgment creditor seeking to obtain a security deposit, the Department shall notify the party who deposited the security or his/her authorized representative of the receipt of the unsatisfied judgment and that the security deposited shall be used toward satisfying the judgment, unless thence notified within 14 days by the party who deposited the security that the judgment has otherwise been satisfied. If no adequate response is obtained from the person who has deposited security, then the Department shall release the deposit to the judgment creditor or his/her authorized representative upon receipt of a certified full or partial satisfaction of judgment.

k) If the security deposit so released pursuant to an unsatisfied judgment received by the Department only comprises a partial satisfaction of judgment, the remainder shall be paid by the driver or party posting the deposit or the driver shall be suspended. His/her driving privileges and vehicle registration shall not be restored until proof of satisfaction of judgment is submitted to the Department and future proof of financial responsibility is filed for judgments in the amount of \$500-~~00~~ or more.

l) A surety bond shall be terminated if no legal action has been taken within two-~~4~~ 2 years after the date of a suspension ~~an~~-accident, if the Department receives from a person a letter for termination of a surety bond stating that to the best of his/her knowledge he/she has not been or is not being sued. To verify this, the Department shall send the interested party a letter and give him/her two-~~4~~ 2 weeks to respond. If he/she responds that he/she has not been sued or does not respond, the Department shall terminate the surety bond. If the interested party responds with a copy of the summons and complaint indicating court action has been initiated within two-~~4~~ 2 years from the date of the ~~suspension~~ accident, the surety bond shall not be terminated.

m) If a judgment creditor wishes to obtain a payment from a surety bond to satisfy a judgment, he/she shall notify the Safety and Financial Responsibility Section of the Department. The Department shall send a letter to the party who purchased the surety bond and his/her authorized representative informing him/her that the surety bond shall be used toward satisfying the judgment if he/she does not otherwise satisfy the judgment and notify the Department within ~~fourteen~~-~~4~~ 14 days of the procedure used to satisfy the judgment. A copy of the letter shall also be sent to the judgment creditor, his/her authorized representative, and the surety company. The Department shall

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thereafter make a demand on the surety company for the bond and send a copy of the letter to the judgment creditor and his/her authorized representative. If the surety bond only comprises partial satisfaction of judgment, the remainder shall be paid by the driver or the person who posted the surety bond or the driver's license and/or registration shall be suspended. His/her driving privileges and/or vehicle registration shall not be restored until proof of satisfaction of judgment is submitted to the Department and future proof of financial responsibility is filed for judgments in the amount of \$500-~~00~~ or more.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Issuance of Licenses
- 2) Code Citation: 92 Ill. Adm. Code 1030
- 3) Section Numbers: Proposed Action:
1030.97 Amendment
1030.98 Amendment
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to incorporate previously enacted legislation.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers: Proposed Action
1030.86 Amendment
Illinois Register Citation
23 Ill. Reg. 8962
(August 13, 1999)

- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:

Robert W. Mueller
Assistance General Counsel
2701 South Dirksen Parkway
Springfield IL 62723
217/782-5356

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None

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- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999
- The full text of the Proposed Amendment begins on the next page:

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NOTICE OF PROPOSED AMENDMENT(S)

TITLE 92: TRANSPORTATION

CHAPTER 11: SECRETARY OF STATE

PART 1030

ISSUANCE OF LICENSES

- What Persons Shall Not be Licensed or Granted Permits
- Procedure for Obtaining a Driver's License
- Driver's License Medical Advisory Board
- Denial of License or Permit
- Cite for Re-examination
- Physical and Mental Evaluation
- Errors in Issuance of Driver's License/Cancellation
- Medical Criteria Affecting Driver Performance
- Classification of Drivers-References
- Classification Standards
- Fifth Wheel Equipped Trucks
- Bus Driver's Authority, Religious Organization and Senior Citizen Transportation
- Commuter Van Driver Operating a For-Profit Ridesharing Arrangement
- Third-Party Certification Program
- Religious Exemption for Social Security Numbers
- Instruction Permits
- Driver's License Testing/Vision Screening
- Driver's License Testing/Vision Screening with Vision Aid Arrangements Other Than Standard Eye Glasses or Contact Lens(es)
- Driver's License Testing/Written Test
- Endorsements
- Vehicle Inspection
- Driver's License Testing/Road Test
- Multiple Attempts/Road Test
- Exemption of Facility Administered Road Test
- Temporary Licenses
- Requirement For Photograph and Signature of Licensee on Driver's License
- Disabled Person/Handicapped Identification Card
- Restictions
- Restricted Local Licenses
- Duplicate or Corrected Driver's License or Instruction Permit
- Diplomatic and Consular Licenses
- Restricted Commercial Driver's License
- Invalidation of a Driver's License, Permit and/or Driving Privilege or Permit
- School Bus Commercial Driver's License
- Anatomical Gift Donor
- Emergency Medical Information Card
- Change-of-Address

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1030.120 Issuance of a Probationary License

1030.130 Grounds for Cancellation of a Probationary License

APPENDIX A Questions Asked of a Driver's License Applicant

APPENDIX B Acceptable Identification Documents

AUTHORITY: Implementing Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 19182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992. For a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection

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of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. _____, effective _____.

Section 1030.97 Invalidation of a Driver's License, Permit and/or Driving Privilege or Permit

a) For purposes of this Section the following definitions shall apply:

"Driver Remedial Education Course" - an organized remedial activity approved by the Driver Services Department for improving the driving habits of certain suspended minor drivers. The course shall consist of individual counseling and/or group sessions of instruction and shall not exceed 2 sessions or 9 hours of instruction.

"Invalidation" - the withdrawal, by consent, court order, death of the holder or the holder's failure to complete a driver's remedial education course, of the validation of a person's license, or permit and/or driving privilege in accordance with Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I].

"Law Enforcement" - a police officer, sheriff, coroner, municipal prosecutor, or state's attorney.

"Secretary of State Employee" - all supervisory personnel within the Department of Driver Services of the Office of the Secretary of State.

b) The Secretary of State shall invalidate a driver's license, or permit and/or driving privilege when:

- 1) When the holder voluntarily surrenders the license or permit and declares his/her intention to do so in writing to the Secretary;
- 2) When the Secretary receives a certified court order indicating the holder is to refrain from driving;
- 3) Upon the death of the holder; or
- 4) Upon the termination of a suspension period of a driver under the age of 18 whose driving privileges have been suspended pursuant to Section 6-206(a)(4), (11), (16), (21), (31), (33), and (34) Prior to 7/30/98, (36) and/or Section 11-501.8 of the Illinois Vehicle Code, who has failed to successfully complete a driver remedial education course [625 ILCS 5/6-206(a)(4), (11), (16), (21), (33), and (34) prior to 7/30/98], (36) and/or 11-501.8.

c) A driver's license or permit invalidated based upon a voluntary

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surrender under this Section may be reinstated in the same manner as prescribed by Sections 6-114 and 6-115 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-114 and 6-115].

- d) A driver's license or permit invalidated under this Section shall nullify the holder's driving privileges, except upon the death of the holder.
- e) A license or permit invalidated upon the death of the holder may be released to a relative of the decedent provided the actual license or permit bears a readily identifiable designation evidencing invalidation. To invalidate a license or permit a hole shall be punched through the issuance date and the expiration date of the license or permit by an employee of the Secretary of State, a law enforcement officer, or a coroner.
- f) The Secretary of State employee, law enforcement officer, or coroner who invalidates a license or permit, shall make a report of the matter to the Secretary of State on a form provided or approved by the Secretary of State.
- g) Driving privileges invalidated based upon a court order may be reinstated upon receipt of a court order granting reinstatement or an order from the court terminating probation, conditional discharge or court supervision.
- h) A driver whose driving privileges are invalidated based upon the driver's failure to complete a driver remedial education course may be reinstated upon successful completion of a driver remedial education course, the payment of all reinstatement fees and retesting under Section 6-109 of the Illinois Vehicle Code [625 ILCS 5/6-109] if the suspension period is 6 months or greater.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1030.98 School Bus Commercial Driver's License

a) For purposes of this Section, the following definitions shall apply:

"Cancellation" - the without prejudice annulment or termination by formal action of the Secretary of a person's driver's license because the licensee is no longer entitled to such license in accordance with Sections 1-110 of the Illinois Vehicle Code and 6-201 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/1-110 and 6-201].

"Commercial Driver's License (CDL)" - a driver's license issued by a state to a person, which authorizes that person to drive a certain class of commercial motor vehicle or vehicles [625 ILCS 5/6-500(3)].

"Commercial Driver's License Information System (CDLIS)" - the

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information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (CMVSA) to serve as a clearing house for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial Motor Vehicle" - a motor vehicle, except those referred to in Section 6-500(6)(d) of the Illinois Vehicle Code, designed to transport passengers or property if:

the vehicle has a GVWR of 26,001 pounds or more or such a lesser GVWR as subsequently determined by federal regulations or the Secretary of State; or any combination of vehicles with a GVWR of 26,001 pounds or more, provided the GVWR of any vehicle or vehicles being towed is 10,001 pounds or more; or

the vehicle is designed to transport 16 or more persons; or

the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR E-P-R-Part 172, subpart F.

"Conviction" - an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal; an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court; the payment of a fine or court cost regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered; or a violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended or probated [625 ILCS 5/6-501].

"Disqualification" - a withdrawal of the privilege to drive a commercial motor vehicle.

"Felony" - an offense under State or Federal law that is punishable by death or imprisonment for a term of one year or more.

"Gross Vehicle Weight Rating (GVWR)" - the value specified by the manufacturer as the maximum loaded weight of a single or a combination of vehicle(s), or the registered gross weight, whichever is greater. The GVWR of a combination of vehicles (commonly referred to as the Gross Combination Weight Rating (GCWR)) is the GVWR of the power unit plus the GVWR of the towed unit(s), or the combined registered weight of the power unit plus towed unit(s), whichever is greater.

"School Bus" - Every motor vehicle, except as otherwise provided in this definition, owned or operated by or for a school operated by a

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religious institution or a public or private child care facility, pre-school, primary or secondary school for the transportation of persons regularly enrolled in any such entity as students in Grade 12 or below in connection with any activity of the entity. This definition does not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is on a regularly scheduled route for the transportation of other fare paying passengers or furnishing charter service for the transportation of groups on field trips or other special trips or in connection with special events or for shuttle service between attendance centers or other educational facilities and not over a regular or customary school bus route.

A religious organization bus as defined in Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182].

A motor vehicle designed for carrying not more than nine passengers that is not registered as a school bus under Section 3-808 of the Illinois Vehicle Code [625 ILCS 5/3-808].

"School Bus Commercial Driver Instruction Permit (School Bus CDIP)" - an instruction permit, with a "J48" restriction, which limits CMV operation to a school bus only, as defined in this Part.

"School Bus Commercial Driver's License (School Bus CDL)" - a commercial driver's license with a "J48" restriction which limits CMV operation to a school bus only as defined in this Part.

"School Bus CDL Restriction" - a "J48" restriction placed on a commercial driver's license or school bus commercial driver instruction permit which limits commercial motor vehicle operation to a school bus only, within classification, valid only when accompanied by a valid Illinois school bus permit.

"Serious Traffic Violation" - notwithstanding convictions, which in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control shall be considered a serious traffic violation: a violation relating to excessive speeding, involving a single speeding charge of 15 miles per hour or more above the legal speed limit; or a violation of any State law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; or a violation of Section 6-104(d) of the Illinois Vehicle Code [625 ILCS

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5/6-104(d)] relating to the possession of a valid school bus driver permit; or a violation of the speed limit in school zone as defined in Section 11-605 of the Illinois Vehicle Code [625 ILCS 5/11-605]; or a violation of passing a stopped school bus as defined in Section 11-1414 of the Illinois Vehicle Code [625 ILCS 5/11-1414]; or failure to stop at railroad crossing as defined in Section 11-1202 of the Illinois Vehicle Code [625 ILCS 5/11-1202]; or a violation relating to improper or erratic lane changes; or a violation relating to following another vehicle too closely; or any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines pursuant to 92 Ill. Adm. Code 1040.20.

"State" - a state or territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Third Party Tester" - an entity that has been approved by the Secretary.

b) In order to be eligible for a school bus commercial driver's license the applicant must:

- 1) be eligible and have applied for an Illinois school bus permit pursuant to Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1] and 92 Ill. Adm. Code 1035;
- 2) pass a written school bus core knowledge and passenger endorsement written tests;
- 3) pass the skills test in a representative vehicle.

c) In order to be eligible for a school bus commercial driver instruction permit the applicant must pass the written school bus core knowledge test.

d) The Secretary of State shall issue a school bus CDIP in accordance with Section 1030.65 of this Part and Section 6-105 of the Illinois Vehicle Code [625 ILCS 5/6-105].

e) The Secretary of State shall deny issuance of a school bus CDL and/or school bus CDIP:

- 1) for failure to meet the qualification standards contained in Section 6-508 of the Illinois Vehicle Code [625 ILCS 5/6-508];
- 2) for failure to meet any eligibility requirements contained in this Section.

f) Prior to the issuance of a school bus CDL and school bus CDIP, the Secretary of State shall perform a records check through the Commercial Driver's License Information System (CDLIS) and enter each school bus CDL holder's record into CDLIS [625 ILCS 5/6-513].

g) A persons applying for and operating on a school bus CDIP shall be exempt from obtaining and holding an Illinois bus driver permit, but must be accompanied by an individual holding the proper license classification and a school bus driver permit.

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h) All drivers issued a school bus commercial driver's license shall have their commercial motor vehicle operation limited to a school bus, but may operate non-commercial motor vehicles with classification or of a lesser classification.

i) A driver with a school bus CDL issued under this Section shall have on his/her driver's license a Type "J48" restriction and a "p" endorsement.

j) A school bus CDL shall expire in accordance with the provisions of Section 6-115 of the Illinois Vehicle Code [625 ILCS 5/6-115].

k) The fees for a school bus commercial driver's license shall be as follows:

- 1) Driver's license upgrade to school bus CDL\$20
- 2) Renewal school bus CDL\$20
- 3) Duplicate or corrected school bus CDL\$5
- 4) Instruction Permit issued to any person holding a valid Illinois driver's license for the purpose of changing to a school bus CDL\$10
- 5) School bus CDL upgrade to regular CDL\$20
- 6) Driver's license renewal, plus school bus commercial driver's license instruction permit\$20

l) A driver who possesses a school bus CDL or school bus CDIP shall be subject to the disqualification provisions of the Illinois Vehicle Code [625 ILCS 5/6-514].

m) A driver who possesses a school bus CDL or school bus CDIP shall be subject to the prohibitions against driving a commercial motor vehicle while having any alcohol in such person's system as outlined in Section 6-515 of the Illinois Vehicle Code [625 ILCS 5/6-515].

n) A driver who possesses a school bus CDL or school bus CDIP shall be subject to the implied consent requirements for commercial motor vehicle drivers as outlined in Section 6-516 of the Illinois Vehicle Code [625 ILCS 5/6-516].

o) A driver who possesses a school bus CDL or school bus CDIP shall be subject to the implied consent warnings as outlined in Section 6-517 of the Illinois Vehicle Code [625 ILCS 5/6-517].

p) A driver whose school bus CDL or school bus CDIP has been canceled or withdrawn may contest the sanction by requesting a hearing pursuant to the procedures as outlined in Section 2-118 of the Illinois Vehicle Code [625 ILCS 5/2-118]. The cancellation or withdrawal of a school bus CDL shall remain in effect pending the outcome of that hearing [625 ILCS 5/2-118].

q) A driver who possesses a school bus CDL or school bus CDIP shall be subject to the cancellation provisions of Section 6-201 of the Illinois Vehicle Code [625 ILCS 5/6-201].

r) A driver who possesses a school bus CDL or school bus CDIP shall be subject to all provisions of the Uniform Commercial Drivers License Act [625 ILCS 5/Ch. 6, Art. VI].

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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_____)

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- 1) Heading of the Part: School Bus Driver Permit
- 2) Code Citation: 92 Ill. Adm. Code 1035
- 3) Section Number: 1035.10
Proposed Action:
Amendment
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and Article I of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. I].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being proposed to incorporate previously enacted legislation.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will have no effect on local units of government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Secretary of State will fully consider all comments received within 45 days of the date this notice is published. All comments must be in writing and should be sent to:
- Robert W. Mueller
Assistant General Counsel
2701 South Dirksen Parkway
Springfield IL 62723
217/782-5356
FAX: 217/785-1385
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance:
None

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- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 1999
- The full text of the Proposed Amendments begins on the next page.

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TITLE 92: TRANSPORTATION
CHAPTER 11: SECRETARY OF STATE

PART 1035
SCHOOL BUS DRIVER PERMIT

Section

1035.10

Definitions

1035.15

Requirements of Applicants for a School Bus Driver Permit

1035.20

Annual Medical Examination and Certificate

1035.25

Permit Application Process

1035.30

Training

1035.35

Denial, Cancellation, or Suspension of a School Bus Driver Permit

1035.40

Notice

1035.45

Employer Responsibility

1035.50

Hearings

AUTHORITY: Implementing Section 6-106.1, and authorized by Section 6-521, of the Illinois Vehicle Code.

SOURCE: Adopted at 19 Ill. Reg. 10716, effective July 10, 1995; amended at 23 Ill. Reg. _____, effective _____.

Section 1035.10 Definitions

For purposes of this Part, the following definitions shall apply:

"Cancellation" - cancellation
- the annulment or termination by formal action of the Secretary of State of a person's school bus driver permit because of some error or defect in the permit, because the permit holder is no longer entitled to such permit, refusal or neglect of the person to submit an alcohol and drug evaluation or submit to or failure to successfully complete the examination, in accordance with Sections 1-110, 6-106.1 and 6-207 of the Illinois Vehicle Code [625 ILCS 5/1-110, 6-106.1 and 6-207].

"Conviction" - a final adjudication of guilty by a court of competent jurisdiction after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default. ~~"Conviction" - an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal; an unvacated forfeiture of bail or collaterals; deposited to secure the person's appearance in court; the payment of a fine or court cost regardless of whether the imposition of sentence is deferred and ultimately a judgment dismissing the underlying charge is entered or a violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended or probated (625 ILCS 5/6-5604b);~~

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"Denial" - to prohibit or disallow the privilege to obtain a school bus driver permit and/or the privilege to operate a school bus in accordance with Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1].

"Disqualification" - a withdrawal of the privilege to drive a commercial motor vehicle [625 ILCS 5/4-115.3][625-IBES-5/6-186r1].

"Employer" - any public or private school district, individual, corporation, partnership or association who employs school bus drivers licensed pursuant to Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1].

"Employer Certification" - a form as prescribed by the Secretary of State submitted by the employer which certifies that an applicant has met all pre-employment conditions and all conditions for reapplication, or that a driver who is no longer eligible for a school bus driver permit has been removed from service.

"Fingerprint Process" - a method by which a person's fingerprints are taken for the purpose of certification of a criminal background investigation for a school bus driver permit and submitted to the Illinois Department of State Police and the Federal Bureau of Investigation (FBI).

"Home State" - the States of Indiana, Michigan, Wisconsin, Iowa, Missouri and Kentucky, which have issued a valid and properly classified driver's license.

"Lapse" - a period of time following the expiration of a driver's license or school bus driver permit in which the driver can renew or reapply without penalty.

"Medical Examiner's Certificate Form" - a form upon which a licensed medical examiner records results of a physical examination and certifies whether a person is qualified to apply for a school bus driver permit.

"Miscellaneous Suspension" - a safety and financial responsibility, unclassified judgment, auto emissions, penalty for parking violation, failure to appear, and all suspensions which are rescinded and are no longer in effect.

"Pre-Employment Conditions" - an applicant must be interviewed by the prospective employer; complete a school bus driver permit application and prescribed medical report form; successfully pass a physical examination; successfully complete a fingerprint based Illinois specific background check with fingerprints forwarded to the FBI for a

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national background check; and receive the required specialized training.

"Provisional Status" - the temporary privilege to operate a school bus pending the completion of the Federal Bureau of Investigation (FBI) criminal background check.

"Repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic" - for which an order has been entered to suspend or revoke the license or permit under the discretionary authority of Section 6-206(a)(3) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(3)].

"Repeatedly involved as a driver in motor vehicle collisions" - for which an order has been entered to suspend or revoke the license or permit under the discretionary authority of Section 6-206(a)(4) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(4)].

"Rescind Order" - a removal by formal action of an order canceling, suspending or denying issuance of a school bus permit to a person.

"Review of Driving Habits" - a review of the applicant's driving record maintained by the Office of the Secretary of State or documentation from another licensing jurisdiction, which has been certified within 30 days prior to the date of application, to insure that the requirements pursuant to Section 6-106(1), (2), (3), (9), (10), (11), (12) and (13) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-106(1), (2), (3), (9), (10), (11), (12) and (13)] have been met.

"School Bus" - every motor vehicle, except as provided in this definition, owned or operated by or for a school operated by a religious institution or a public or private child care facility, pre-school, primary or secondary school for the transportation of persons regularly enrolled in any such entity as students in grade 12 or below in connection with any activity or entity. This definition does not include the following:

A bus operated by a public utility, municipal corporation or common carrier authorized to conduct local or interurban transportation of passengers when the bus is on a regularly scheduled route for the transportation of other fare paying passengers or furnishing charter service for the transportation of groups on field trips or other special trips or in connection with special events or for shuttle service between attendance centers or other educational facilities and not over a regular or customary school bus route.

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A religious organization bus as defined in Section 1-182 of the Illinois Vehicle Code [625 ILCS 5/1-182].

A motor vehicle designed for carrying not more than nine passengers which is not registered as a school bus under Section 3-808 of the Illinois Vehicle Code [625 ILCS 5/3-808].

"School Bus Driver Permit" - permit issued for a period of one (1) year to school bus drivers by the Office of the Secretary of State pursuant to Section 6-106.1 of the Illinois Vehicle Code [625 ILCS 5/6-106.1].

"School Bus Driver Permit Application" - the form or document prescribed by the Secretary of State upon which a request for a school bus driver permit is made.

"Serious Traffic Violation" - notwithstanding convictions, which in and of themselves result in the immediate suspension or revocation of a driver's license and privilege, the following offenses or a similar violation of a law or local ordinance of any state relating to motor vehicle traffic control shall be considered a serious traffic violation: a violation relating to excessive speeding, involving a single speeding charge of 15 miles per hour or more above the legal speed limit; or a violation of any State Law or local ordinance relating to motor vehicle traffic control (other than parking violations) arising in connection with a fatal traffic accident; or a violation of Section 6-104(d) of the Illinois Vehicle Code [625 ILCS 5/6-104(d)] relating to the possession of a valid school bus driver permit; or a violation of the speed limit in a school zone as defined in Section 11-605 of the Illinois Vehicle Code [625 ILCS 5/11-605]; or a violation of passing a stopped school bus as defined in Section 11-1414 of the Illinois Vehicle Code [625 ILCS 5/11-1414]; or failure to stop at railroad crossing as defined in Section 11-1202 of the Illinois Vehicle Code [625 ILCS 5/11-1202]; or a violation relating to improper or erratic lane changes; or a violation relating to following another vehicle too closely; or any other similar violation of a law or local ordinance of any state relating to motor vehicle traffic control, other than a parking violation, which the Secretary of State determines pursuant to 92 Ill. Adm. Code 1040.20.

"State" - a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada [625 ILCS 5/1-195].

"Suspension of Driver License" - the temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary as defined in Section 1-204 of the

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Illinois Vehicle Code [625 ILCS 5/1-204].

"Suspension of School Bus Driver Permit" - the temporary withdrawal by formal action by the Secretary of a person's permit which grants and specifies limited privileges to operate a school bus on the public highways, for a period specifically designated by the Secretary.

"Waiver" - an exemption allowed under certain conditions rendering an ineligible applicant eligible.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System

- 2) Code Citation: 80 Ill. Adm. Code 1650

- 3) Section Numbers: Proposed Action:

1650.180	Amended
1650.201	New
1650.202	New
1650.203	New
1650.204	New
1650.205	New
1650.206	New
1650.207	New
1650.208	New
1650.209	New
1650.210	Amended
1650.211	New
1650.221	New
1650.222	New
1650.230	Repealed
1650.341	Amended
1650.350	Amended
1650.356	Amended
1650.357	Amended
1650.391	Amended
1650.392	Amended
1650.450	Amended
1650.451	Amended
1650.571	New
1650.575	Amended
1650.1010	Amended

- 4) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art.16].

- 5) A Complete Description of the Subjects and Issues Involved:

Section 1650.180 is being amended to require employers with 50 or more contributing members to file the Employers Annual Report of Earnings via the System's automated reporting system, beginning with the report due August 15, 2000.

Section 1650.201 is a new rule that separates out the portion of present Section 1650.210 that deals solely with the disability application process. The new rule requires a request for disability benefits to be in writing.

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Section 1650.202 is a new rule that defines key words and phrases in 40 ILCS 5/16-149 and 16-149.1. Under the new rule, a member will be allowed \$10,000 in "earned income" per calendar year or \$833.33 in any month before being considered to be "gainfully employed." This is an increase of the \$6,000 per year or \$500 per month limitation contained in existing Section 1650.230. Additionally, for the purpose of determining if a member is no longer disabled, "teacher" will be defined as those positions covered under 40 ILCS 5/16-106.

Section 1650.203 is a new rule that defines key words and phrases in 40 ILCS 5/16-149.2. The rule makes clear that Section 16-149.2's earnings limitation is based on a member's "earned income" as defined in the Internal Revenue Code.

Section 1650.204 is a new rule providing that disability benefits will be terminated in accordance with 40 ILCS 5/16-149 and 16-149.1 if the recipient engages in "gainful employment" as defined in proposed Section 1650.202.

Section 1650.205 is a new rule specifying the documentation required to support claims for disability benefits. The rule gives the System discretion to require an independent medical examination, specifies when medical examinations are required, and sets forth the consequences for not submitting the examination results to the System when required.

Section 1650.206 is a new rule that prohibits members from filling out physician certificates themselves.

Section 1650.207 is a new rule that specifies the System's procedures for handling disabilities due to pregnancy.

Section 1650.208 is a new rule clarifying that disability insurance benefits from a private insurance carrier or self-insured disability program are not considered salary for purposes of 40 ILCS 5/16-149, 16-149.1, or 16-149.2.

Section 1650.209 is a new rule that specifies the System's method for computing a disability benefit for a member who has different semester salary rates.

Section 1650.210 is being amended to eliminate subsections (b) through (i) which are now provided for in other Sections proposed in these amendments. The remaining rule provides the requirements for submitting applications for disability and survivor benefits.

Section 1650.211 is a new rule providing that disability retirement annuants must shift to an age retirement if they are found to be no longer disabled.

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Section 1650.221 is a new rule that separates out a portion of present Section 1650.210 that does not deal with disability. The rule specifies when a member becomes an annuitant.

Section 1650.222 is a new rule that separates out a portion of present Section 1650.210 that does not deal with disability. The rule provides that death occurring after the System has received an annuity application is death out of service for purposes of calculating survivor benefits.

Section 1650.230 is being repealed because its contents are covered in other proposed or existing rules. The portion of the rule that deals with disability is contained in new rules proposed in these amendments. The portion of the rule that deals with adult disabled children is fully covered in present Section 1650.272.

Section 1650.341 is being amended to clarify what qualifies as an involuntary layoff for service credit purposes.

Section 1650.350 is being amended to eliminate that portion of subsection (b) which allowed the reporting of bonuses based upon sick days prior to July 1, 1998, and which is no longer in effect.

Section 1650.356 is being amended to allow members to make after tax contributions to the System to purchase optional service and/or formula upgrades not covered by a payroll deduction agreement. The amended rule will give members more options in handling optional service and upgrade purchases.

Section 1650.357 is being amended to distinguish between upgrade and optional service purchases to effectuate the proposed changes to Section 1650.356.

Section 1650.391 is being amended to explain how interest on upgrade refunds for every three years of service after 1998 will be calculated. The amended rule will also provide that when a member receives a greater benefit as a result of an actuarial calculation, the System will refund a member's upgrade payment plus interest.

Section 1650.392 is being amended to allow members participating in a regular service upgrade agreement to upgrade additional optional service added during the five-year payoff period provided in the statute at the same salary rate as the member's regular service upgrade.

Section 1650.450 is being amended to eliminate the need to certify flexible benefit plans as non-discriminatory based upon the Taxpayer Relief Act of 1997 (TPRA). The TPRA permanently exempts governmental plans from the Internal Revenue Code's non-discrimination and minimum participation rules for qualified plans. The rule is also being changed

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to clarify that, to overcome the presumption of conversion, there must be a change in a collectively bargained agreement which affects all members in the bargaining unit.

Section 1650.451 is being amended to eliminate problems with payments to members that are subject to forfeiture. Payments will be creditable if reported and taxed in the year made. If the payment is later forfeited, adjustments must be made by the employer to remove the earnings from the year in which they were reported.

Section 1650.571 is a new rule setting forth the requirement for members who wish to designate a trust to receive monthly survivor benefits on behalf of a dependent beneficiary.

Section 1650.575 is being amended to establish the 15th of the month preceding the start of the student's first semester or quarter as the start date for dependent students to receive survivor benefits.

Section 1650.1010 is being amended to require a member who signs a Board candidate's nominating petition to provide his or her social security number as a means of verifying the individual's identity as a member of the System.

6) Will this proposed amendment replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed amendments may be submitted in writing for a period of 45 days following publication of this Notice to:

Thomas S. Gray, Assistant General Counsel
Teachers' Retirement System
2815 West Washington, P. O. Box 19253
Springfield, Illinois 62794-9253
(217) 753-0961

12) Initial Regulatory Flexibility Analysis: These rules will not affect small businesses.

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- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: January 1999

The full text of the Proposed Amendments begin on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE D: RETIREMENT SYSTEMS
 CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF
 THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
 TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section
 1650.10

Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
 1650.120 Claims Records (Repealed)
 1650.120 Individual Accounts (Repealed)
 1650.130 Ledger and Accounts Books (Repealed)
 1650.140 Statistics (Repealed)
 1650.150 Confidentiality of Records
 1650.160 Filing and Payment Requirements
 1650.180 Early Retirement Incentive Payment Requirements
 1650.181 Waiver of Additional Amounts Due
 1650.182 Definition of Employer's Normal Cost
 1650.183

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits - Application Procedure
 1650.202 Disability and Occupational Disability Benefits - Definitions
 1650.203 Disability Retirement Annuity - Definitions
 1650.204 Gainful Employment - Consequences
 1650.205 Medical Examinations and Investigation of Disability Claims
 1650.206 Physician Certificates
 1650.207 Disability Due to Pregnancy
 1650.208 Disability Payments
 1650.209 Computation of Annual Salary When Member Has Different Semester Salary Rates
 1650.210 Claim Applications
 1650.211 Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
 1650.220 Reclassification of Disability Claim (Repealed)
 1650.221 When Member Becomes Annuitant
 1650.222 Death Out of Service
 1650.230 Medical Examinations and Investigations of Claims (Repealed)

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1650.240 Refunds; Impermissible Refunds; Canceled Service; Repayment
 1650.250 Death Benefits
 1650.260 Evidence of Age
 1650.270 Reversionary Annuity - Evidence of Dependency
 1650.271 Evidence of Parentage
 1650.272 Eligible Child Dependent By Reason of a Physical or Mental Disability
 1650.280 Evidence of Marriage
 1650.290 Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section
 1650.310 Effective Date of Membership
 1650.320 Method of Calculating Service Credits
 1650.325 Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
 1650.330 Duplicate Service Credit
 1650.340 Service Credit for Leaves of Absence
 1650.341 Service Credit for Involuntary Layoffs
 1650.345 Service Credit for Periods Away From Teaching Due to Pregnancy
 1650.346 Service Credit for Periods Away From Teaching Due to Adoption
 1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement
 1650.355 Purchase of Optional Service - Required Minimum Payment
 1650.356 Payroll Deduction Program
 1650.357 Employer Payment of Member's Optional Service and/or Upgrade Contribution
 1650.360 Optional Contribution-Balance
 1650.360 Settlement Agreements and Judgments
 1650.370 Calculation of Average Salary (Renumbered)
 1650.380 Definition of Actuarial Equivalent
 1650.390 Independent Contractors
 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
 1650.392 Optional 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade Application

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section
 1650.410 Return of Contributions for Duplicate or Excess Service
 1650.420 Interest on Deficiencies (Repealed)
 1650.430 Installment Payments (Repealed)
 1650.440 Small Deficiencies, Credits or Death Benefit Payments
 1650.450 Definition of Salary
 1650.451 Reporting of Conditional Payments
 1650.460 Calculation of Average Salary
 1650.470 Rollover Distributions
 1650.480 Rollovers to the System

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SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

Section
 1650.505 Beneficiary (Repealed)
 1650.510 Re-entry Into Service
 1650.520 Suspension of Benefits
 1650.530 Power of Attorney
 1650.540 Conservators/Guardians
 1650.550 Presumption of Death
 1650.560 Benefits Payable on Death
 1650.570 Survivors' Benefits
 1650.571 Payment of Monthly Survivor Benefits to a Trust
 1650.575 Full-time Student - Receipt of Survivors Benefits Until Age 22
 1650.580 Evidence of Eligibility
 1650.590 Comptroller Offset
 1650.595 Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section
 1650.605 Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

SUBPART H: ADMINISTRATIVE REVIEW

Section
 1650.610 Staff Responsibility
 1650.620 Right of Appeal
 1650.630 Form of Written Request
 1650.640 Prehearing Procedure
 1650.650 Hearing Procedure
 1650.660 Rules of Evidence

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section
 1650.710 Amendments

SUBPART J: RULES OF ORDER

Section
 1650.810 Parliamentary Procedure

SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

Section
 1650.910 Summary and Purpose
 1650.920 Definitions
 1650.930 Submission of Requests

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1650.940 Form and Content of FOIA Requests
 1650.950 Appeal of a Denial
 1650.960 Executive Director's Response to Appeal
 1650.970 Response to FOIA Requests
 1650.980 Inspection of Records at System Office
 1650.990 Copies of Public Records
 1650.995 Materials Available Under Section 4 of FOIA

SUBPART L: BOARD ELECTION PROCEDURES

Section
 1650.1000 Nomination of Candidates
 1650.1010 Petitions
 1650.1020 Eligible Voters
 1650.1030 Election Materials
 1650.1040 Marking of Ballots
 1650.1050 Return of Ballots
 1650.1060 Observation of Ballot Counting
 1650.1070 Certification of Ballot Counting
 1650.1080 Challenges to Ballot Counting

SUBPART M: RETIREMENT BENEFITS

Section
 1650.2900 Excess Benefit Arrangement

AUTHORITY: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code [26 USC 1 et seq.]; Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22

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Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 13620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 23 Ill. Reg. _____, effective _____.

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section 1650.180 Filing and Payment Requirements

- a) All employers are required to forward member contributions and amounts required under [40 ILCS 5/16-158(c)] to the System after the close of each pay period or monthly, if a State Institution, and to file an annual report of earnings with the System on or before August 15 of each year. Failure to forward contributions or to file reports shall result in additional amounts due as prescribed by Section 16-155 of the Illinois Pension Code (the Act) [40 ILCS 5/16-155].
 - b) In determining the additional amount due for late filing of the employer's annual report of earnings as prescribed by Section 16-155(c) of the Act, the postmark date is deemed to be the date of receipt. If the postmark is made other than by the U.S. Post Office, such as a postage meter, the postmark must show a date on or before the date the material was to be received in an office of the System and must be received no later than four working days after the date shown.
 - c) The employer's annual report of earnings shall be properly completed and report creditable earnings in accordance with applicable laws and rules. Any report failing to materially conform with this requirement shall be returned to the employer and shall not be deemed received until properly corrected and returned to the System.
 - d) Envelopes must be properly addressed to the System if the reports are to be considered filed timely, with correct postage paid by the employer. The System may accept contributions via electronic transfer.
 - e) Beginning with the Employers Annual Report of Earnings due August 15, 2000, employers with 50 or more contributing members are required to file the report via the System's automated reporting system.
- (Source: Amended at 23 Ill. Reg. _____, effective _____.)

SUBPART C: FILING OF CLAIMS

Section 1650.201 Disability Benefits - Application Procedure

- a) Any individual claiming a disability benefit under 40 ILCS 5/16-149,

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- 16-149.1 or 16-149.2 shall begin the process by filing a written notice with the System by letter or telefax.
- b) For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member files his or her written notice of disability within 90 days after the commencement of disability or the date eligibility for salary ceases, benefits shall be payable from the date the disability commenced or eligibility for salary ceased.
- c) For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member files his or her written notice of disability later than 90 days from the commencement of disability or the date eligibility for salary ceases, benefits may be payable from the member's date of application subject to provisions of subsection (d)(3).
- d) Disability benefits under the provisions of 40 ILCS 5/16-149 shall become payable the later of:
- 1) the 31st calendar day the member is absent from teaching due to the disability for which benefits are sought;
 - 2) upon exhaustion of the member's sick leave, or if sick leave is not paid by the employer, the date upon which the sick leave would have been exhausted had the member been paid by the employer; or
 - 3) the date the System receives written notification of disability if more than 90 days have elapsed from the later of:
 - A) commencement of disability;
 - B) the last day for which salary is payable including payment for sick leave days, whether or not the sick leave days are actually paid for by the employer; or
 - C) the date on which all documentation required under 40 ILCS 5/16-149.1 is received by the System, if the receipt of the documentation is more than six months after the date notice is filed pursuant to subsection (a).
- e) Occupational disability benefits under the provisions of 40 ILCS 5/16-149.1 shall become payable from the later of:
- 1) The date after the last day for which salary is paid; or
 - 2) the date the System receives written notification of disability if more than 90 days have elapsed from the later of:
 - A) the commencement of the disability;
 - B) the last day for which salary is paid; or
 - C) the date on which all documentation required under 40 ILCS 5/16-149.1 is received by the System, if the receipt of the documentation is more than six months after the date notice is filed pursuant to subsection (a).
- f) When an individual claiming disability benefits is employed under an agreement for less than 12 full months, neither the 31-day waiting period nor the utilization of sick leave requirement, as contained in subsection (d) above, is satisfied during periods not covered by the agreement. For purposes of granting disability benefits, it will be presumed that all employment agreements cover one full school term and are automatically renewable at the commencement of the next school

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- term. Satisfactory evidence must be presented of an employment agreement covering a longer period than a full school term (e.g., 10, 11 or 12 months).
- g) Whenever a member becomes ineligible to receive a disability or occupational disability benefit due to gainful employment but is subsequently disabled for the same cause within 90 days after the member's or annuitant's last date of eligibility for benefits, benefits shall be reinstated at the previous benefit rate upon written application. Benefits shall commence the day following the last day the member is eligible to receive salary. If more than 90 days have elapsed, benefits shall be reinstated based on the greater of the member's most recent annual contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.202 Disability and Occupational Disability Benefits - Definitions

For purposes of 40 ILCS 5/16-149 and 16-149.1, the following terms and phrases shall have the following definitions:

"Commencement of disability" shall mean the date upon which a member is determined by required medical examination to be "incapacitated to perform the duties of his or her position as a teacher" as defined in this Section.

"Date of application" shall mean the day upon which the System receives in its business offices the written or telefax notice required in this Section notifying the System the member is applying for disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1.

"Gainful employment" shall mean current employment from which a member realizes "earned income" as that term is defined in section 32(c)(2) of the Internal Revenue Code in excess of \$833 in any month or \$10,000 in any calendar year, while in receipt of a disability or occupational disability benefit.

"Incapacitated to perform the duties of his or her position as a teacher" shall mean the physical or mental inability to perform substantially all of the member's assigned job duties at the commencement of disability.

"Licensed physician" shall mean any individual licensed by the state in which he or she practices medicine. All reports submitted to the System shall include the registration number of the physician

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submitting the report.

"Teacher", for purposes of 40 ILCS 5/16-149(a) and 16-149.1(a), shall mean employment in any equivalent position set forth in 40 ILCS 5/16-106 in this State or another state, territory or by or under the auspices of the United States government.

"Upon application of a member" shall mean the filing of a written or telefax notice by or on behalf of a member notifying the System that the member is applying for disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.203 Disability Retirement Annuity - Definitions

For purposes of 40 ILCS 5/16-149.2, the following terms shall have the following definitions:

"Amount earned by the member" shall mean the member's "earned income" as that term is defined in Section 32(c)(2) of the Internal Revenue Code in any calendar year while in receipt of a disability retirement annuity.

"Licensed physician" shall have the same definition as in Section 1650.202.

"No longer disabled" shall mean the member is no longer "incapacitated to perform the duties of his or her positions as a teacher" as that phrase is defined in Section 1650.202.

"Teacher" shall have the same definition as in Section 1650.202.

"The standard of disability provided in Section 16-149" shall mean "incapacitated to perform the duties of his or her position as a teacher" as that phrase is defined in Section 1650.202.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.204 Gainful Employment - Consequences

A member in receipt of a disability benefit under the provisions of 40 ILCS 5/16-149 or 16-149.1 who engages in "gainful employment" as defined in Section 1650.202 shall have his or her disability or occupational disability benefit terminated as provided in Section 16-149(c) or Section 16-149.1(c), whichever is applicable.

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(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.205 Medical Examinations and Investigation of Disability Claims

a) A member applying for or receiving benefits pursuant to 40 ILCS 5/16-149, 16-149.1 or 16-149.2 shall furnish the System medical records, earnings statements, Social Security benefit or claim information, federal and state tax returns, and any other information deemed relevant by the System to process the member or annuitant's disability claim.

b) A member or annuitant shall submit to an independent medical examination at the discretion of the System. The cost of independent medical examinations shall be borne by the System.

c) In order to verify continued eligibility to receive disability benefits under the provisions of 40 ILCS 5/16-149 or 16-149.1, a member shall provide to the System at least annually written certifications by two state licensed and practicing physicians verifying that the member remains disabled and is unable to perform the duties of the position he or she held at the time his or her disability commenced. Certifications shall be accompanied by a medical report fully explaining the basis for the physician's conclusion that the member remains disabled. However, this requirement may be waived, at the System's discretion, if it is determined that the member's medical condition or prognosis is irreversible or terminal and will result in a permanent inability to return to his or her former position.

d) When a disability or occupational benefit terminates and a member elects to retire on a disability retirement annuity, the member shall submit to medical examinations, unless the member's last examinations within the preceding six months substantiate a continuing disability, in which case no new medical examinations are required.

e) An annuitant in receipt of a disability retirement annuity who becomes eligible for an age retirement annuity shall submit to medical examinations to retain disability retirement annuity status, unless the annuitant's last examinations within the preceding six months substantiate a continuing disability, in which case no new medical examinations are required.

f) Failure of a member or an annuitant to submit to medical examinations or to provide information required pursuant to 40 ILCS 5/16-149.2 or 16-149.1 will result in a suspension of benefit payments.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.206 Physician Certificates

a) Physician certificates are required to be completed by the certifying

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physician or his or her staff.

- b) A physician certificate completed in any part by a member shall not meet the physician certification requirements of 40 ILCS 5/16-149.1, 16-149.1 or 16-149.2.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.207 Disability Due to Pregnancy

- a) A member who is disabled due to pregnancy as provided in 40 ILCS 5/16-149 shall be allowed to receive a maximum of:

1) eight weeks of disability benefits for a pregnancy involving a Cesarean delivery; or
2) six weeks of disability benefits for a pregnancy involving a normal delivery.

- b) However, if complications arise during the pregnancy or as the result of delivery, the period of disability may, upon the submission of appropriate medical documentation, be extended until the member no longer qualifies for benefits under 40 ILCS 5/16-149(c).

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.208 Disability Payments

In determining whether a member is receiving salary as a teacher and, therefore, ineligible to receive disability benefits under the provisions of 40 ILCS 5/16-149, 16-149.1 or 16-149.2, proceeds from disability insurance provided by the employer through a private insurance carrier or through a self-insured disability program shall not be considered salary for purposes of 40 ILCS 5/16-149, 16-149.1 or 16-149.2.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.209 Computation of Annual Salary When Member Has Different Semester Salary Rates

For purposes of 40 ILCS 5/16-149 and 16-149.1, if a member has different semester salary rates during the school year, the System shall determine the member's annual salary rate based upon the salary rate during the semester in which the disability benefit becomes payable or the date the member's disability commenced, whichever is greater.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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Section 1650.210 Claim Applications

- a) Any individual claiming a retirement annuity, a disability retirement annuity, a survivor benefit, a disability benefit or an occupational disability benefit shall file an application therefor in the form prescribed by the System. This application, together with the membership record, and such other information as may have been compiled during the membership of the member or submitted by the applicant shall constitute the complete record forming the basis of the claim. An application for survivor benefits shall be accompanied by a certified copy of the death certificate, other public record of death, or a physician's certificate of death.

- b) When 90 or more days have elapsed subsequent to the commencement of a member's disability--or, if written notification of the commencement of the disability shall be deemed sufficient to commence accrual of benefits--provided, however, if the System fails to receive the documentation required by Section 16-149 or Section 16-149.1 of the Act within six months of the initial notification--no benefits shall accrue until all required documentation is received by the System.
c) Disability benefits become payable the later of:
1) the 31st calendar day after commencement of absence due to disability;
2) Upon exhaustion of the member's sick leave or (if sick leave is not paid by the employer) when the sick leave would have been exhausted had the member been paid; or
3) the date the System receives notification of disability if more than 90 days have elapsed from the later of:
A) commencement of disability; or
B) the last day for which salary (including sick leave pay) is payable; whether or not these days are actually paid;

- d) When an individual claiming disability benefits is employed under an agreement for less than 12 full months--neither the 31-day waiting period nor the utilization of sick leave requirement, as contained in subsection (c) above, is satisfied during periods not covered by the agreement. For purposes of granting disability benefits it will be presumed that all employment agreements cover one full school term and are automatically renewable at the commencement of the next school term. Satisfactory evidence must be presented of an employment agreement covering a longer period than a full school term (e.g., 10-11 or 12 months).

- e) Occupational disability benefits become payable the later of:
1) the date after the last day for which salary is paid; or
2) the date the System receives notification of disability--if more than 90 days have elapsed from the later of:
A) the commencement of the disability; or
B) the last day for which salary is paid.

- f) Death--after receipt by the System of an application for a retirement annuity and any outstanding payments is deemed to be a death--out of service when calculating survivor benefits.

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g) A member may request, in writing, a transfer from a disability benefit to an age retirement annuity or a disability retirement annuity prior to the expiration of the eligible period for disability benefits. The effective date of such annuities shall be the first of the month following receipt of the request. A member receiving a disability retirement annuity may, any time after becoming eligible for an age retirement, request, in writing, a transfer to an age retirement annuity. The effective date of the age retirement annuity will be the first day of the month following receipt of the written request for such transfer.

h) Whenever a member because of employment becomes ineligible to receive a disability benefit, disability retirement annuity or occupational disability benefit, but is subsequently disabled for the same cause within 90 days, benefits shall be reinstated at the previous rate upon written application. Benefits will commence the day following the last day the member is eligible to receive salary. If more than 90 days have elapsed, benefits shall be reinstated based on the greater of the member's most recent annual contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced.

i) A member becomes an annuitant of the System upon cashing the first retirement annuity payment or ten calendar days after the date the first retirement annuity payment is deposited in the designated member's bank account by electronic funds transfer.

(Source: Amended at 23 Ill. Reg. _____, effective _____.)

Section 1650.211 Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity

a) A member may request, in writing, a transfer from a disability or occupational disability benefit to an age retirement annuity or a disability retirement annuity prior to the expiration of a disability period for disability or occupational disability benefits. The effective date of the annuity shall be the first of the month following receipt of the request. An annuitant receiving a disability retirement annuity may, any time after becoming eligible for age retirement, request, in writing, a transfer to an age retirement annuity. The effective date of the age retirement annuity shall be the first day of the month following receipt of the written request for the transfer.

b) At the time a disability retirement annuitant becomes eligible to receive an age retirement annuity, the disability retirement annuitant shall provide the System written certification by two state licensed and practicing physicians verifying that the member remains disabled and is unable to perform the duties of the position he or she held at the time the annuitant's disability commenced. The certifications

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shall be accompanied by a medical report fully explaining the basis for the physicians' conclusion that the member remains disabled. If the disability retirement annuitant is found to no longer be disabled, he or she shall be placed upon age retirement and receive an age retirement annuity.

(Source: Added at 23 Ill. Reg. _____, effective _____.)

Section 1650.221 When Member Becomes Annuitant

A member becomes an annuitant of the System upon cashing his or her first retirement annuity payment or ten calendar days after the date the first retirement annuity payment is deposited in the member's designated bank account by electronic fund transfer.

(Source: Added at 23 Ill. Reg. _____, effective _____.)

Section 1650.222 Death Out of Service

Death occurring after the System has received an application for a retirement annuity and any outstanding payments from the member is deemed to be a death out of service when calculating survivor benefits.

Section 1650.230 Medical Examinations and Investigations of Claims (Repealed)

a) Each member seeking a disability benefit, occupational disability benefit, or a disability retirement annuity shall provide the System with written reports by two or more licensed and practicing physicians certifying that the member is disabled and unable to properly perform the duties of his or her position. Provided, however, in the case of a disability due to pregnancy, the member shall provide the System with a written report by one licensed and practicing physician certifying that she is disabled and unable to perform the duties of her position. In order to substantiate the member's or the annuitant's continued eligibility for a disability benefit, occupational disability benefit, or a disability retirement annuity, the System shall require that the member or annuitant submit to additional medical examinations and shall request medical records, Department of Employment Security earnings statements, Social Security benefit information, income tax records, and other pertinent information under any one of the following circumstances:

- i) There is disagreement among examining physicians;
- ii) The medical examinations were inadequate to substantiate continued disability; a medical examination is considered inadequate when:
 - A) a report is incomplete or

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- B) a report was not completed within the last three months or
 C) the duration of disability is shorter than the period between the date of the medical examination and the date of the submittal of the report.
- 3) there is evidence an impartial medical examination was not performed. An impartial medical exam is not performed when the physician is:
 A) related to the teacher or
 B) a friend of the teacher.
- 4) there is a reasonable basis to believe the member is no longer disabled. A reasonable basis exists when:
 A) the System receives information that the teacher was engaged in activities which would be prohibited by his or her stated disability; or
 B) the System receives inquiries by teachers receiving a disability benefit; disability retirement annuity or occupational disability benefit regarding the work which they may perform.
- 5) the member is found to be gainfully employed. The term gainfully employed:
 A) shall be construed to mean:
 1) any compensation which exceeds \$500 in any month for personal services including fees wages salary commissions and similar items; and
 2) any income which exceeds \$500 in any month derived from the participation in a business activity through the performance of physical and/or mental activities generally performed for the production of income; and
 B) shall be computed on a gross rather than net basis (i.e., no deduction of any kind) including but not limited to deductions for losses expenses taxes or withholding; will be considered in such computation; and
 C) shall be computed either on a monthly or on an annual basis; that is, more than \$500 compensation earned in a month results in a loss of eligibility for that month more than \$5,000 compensation earned in a year results in a loss of eligibility for that year.
- C) Members or annuitants in receipt of a disability benefit or occupational disability benefit shall be requested to submit to medical examinations at least once each year. When a disability benefit terminates and a member elects to retire on a disability retirement annuity the member shall submit to medical examinations unless the member's last examination within the preceding six months substantiates a continuing disability in which case no new medical examinations are required.
- D) A member in receipt of a disability retirement annuity who becomes eligible for an age retirement annuity shall submit to medical examinations to retain disability retirement annuity status:

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- E) the System may have medical information submitted to it evaluated by a qualified consultant or consulting firm. The System retains the right to require members or annuitants to submit to medical examinations by physicians selected by the System at its own expense. These examinations may be in addition to the written reports tendered by the member or the annuitant. Such examinations shall be required when prior medical examinations were inadequate or when there is a question regarding the independence of the physician or when the forms are not completed properly or there is a reasonable basis to believe the member is no longer disabled.
- F) Failure of a member or an annuitant to submit to medical examination or to provide the information required pursuant to Sections 16-149 through 16-149.2 of the Act shall result in suspension of payments. The term "licensed physician" means any individual licensed by the state in which he or she practices as a medical doctor. All licensed physicians shall be requested to submit their registration number on all reports submitted to the System.
- G) Each beneficiary seeking to receive a survivor benefit as a disabled eligible child shall provide the System with a written report from a licensed and practicing physician certifying the beneficiary is disabled as defined by Section 16-149(4) of the Act and Section 1650-372(a)(2) of this Part. Disabled children in receipt of a medical survivor benefit shall be requested to submit to an annual medical examination unless exempted therefrom by Section 1650-372(b). If a required medical examination is not submitted to the System, survivor benefits will be suspended until such required examination is received.
- H) In order to substantiate the beneficiary's continued eligibility as a disabled child for a survivor benefit the System shall require that the beneficiary submit to additional medical examinations and shall request medical records, Department of Employment Security earnings statements, Social Security benefit payment information, Public Aid benefit payment information, income tax records, and other pertinent information under any one of the following circumstances:
 1) the medical examination was inadequate to substantiate continued disability. A medical examination is considered inadequate when:
 A) a report is incomplete; or
 B) a report was not completed within the last three months; or
 C) the duration of disability is shorter than the period between the date of the medical examination and the date of the submittal of the report;
 2) there is evidence an impartial medical examination was not performed. An impartial medical exam is not performed when the physician is:
 A) related to the beneficiary; or
 B) a friend of the beneficiary;
- 3) there is a reasonable basis to believe the beneficiary is no longer disabled. A reasonable basis exists when:

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- A) the System receives information that the beneficiary was engaged in substantial gainful activity or
- B) the System receives inquiries from the beneficiary regarding the work the beneficiary may perform
- 4) the beneficiary is found to be able to engage in substantial gainful activity; the term "substantial gainful activity" is defined in Section 1650-250(f)
- 5) Failure of the beneficiary to submit to medical examinations or to provide the information required to establish or substantiate continued disability shall result in suspension of payments:

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

Section 1650.341 Service Credit for Involuntary Layoffs

- a) An involuntary layoff occurs when there is a termination of full-time, contractual continued service under the provisions of 105 ILCS 5/24-12.
- b) Involuntary layoffs shall not include dismissals for cause or other performance related reasons.
- c) To receive service credit for an involuntary layoff, a member must be employed in a contractual teaching position under this System or the State Universities Retirement System for the creditable period of the layoff or one year, whichever is less.
- a) For purposes of this Section, involuntary layoffs shall not include dismissals for cause or other performance related reasons; the statutory return to teaching requirement is met when the member establishes credit with this System or the State Universities Retirement System for at least the lesser of the creditable period of the layoff or one year;
- b) For purposes of this Section, a layoff occurs when there is a termination of paid employment due to lack of work; lack of funding; abolition of a position or a material change in duties or organization;

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1650.350 Service Credit for Unused Accumulated Sick Leave Upon Retirement

- a) To be creditable for retirement purposes, sick leave days must actually be available for use by a member in the event of illness. Service credit is not available and shall not be computed for sick leave days added to the record of a member for the purpose of increasing a member's retirement service credit. To determine if any sick leave days granted by an employer in excess of the member's

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normal annual sick leave allotment during a member's final years of employment are actually available for use and reportable to the System as service credit, the System shall apply the following formula:

- 1) from the date upon which the sick leave days were granted, the number of days remaining in the school term or the member's employment agreement, whichever is greater, until termination shall be determined;
 - 2) from the resulting number of days the System shall subtract the number of sick leave days previously accrued by the member; and
 - 3) the difference is the maximum number of sick leave days that may be reported in addition to those days previously accrued, provided that the employer will allow the member to use such days in the event of illness prior to termination.
- b) Unused and uncompensated sick leave days are not eligible for service credit at retirement when the member receives direct compensation for such days. Direct compensation means payment of salary, wages, fringe benefits, contributions, bonuses and lump-sum payments before retirement. Notwithstanding the foregoing provisions of this subsection, a member is not deemed compensated if his or her employer maintains or establishes a reward system based upon daily attendance of employees which pays additional benefits to a member (including but not limited to salary) and which does not reduce the accumulated sick leave days available for use and credited to the member by the employer. Effective July 1, 1998, if a member receives payment for accumulated sick leave days that is also reportable to the System as creditable earnings, no service credit shall be available for the days so compensated.
- c) For purposes of calculating a retirement annuity, the System shall not grant service credit for any days withdrawn by the member from a sick leave bank in excess of the days deposited therein and unused by the member.
- d) Accumulated personal leave days are governed by the same standards set forth in subsections (a) and (b) above for sick leave days, but only if they were actually available for use by a member in the event of illness.
- e) Accumulated, unused vacation days are not creditable with the System.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1650.356 Payroll Deduction Program

- a) Effective July 1, 1998, a member who is employed on a full-time basis may have his or her employer pick up upgrade and/or optional service contributions that the member has elected to pay the System through the payroll deduction program, and the contributions so picked up shall be treated as employer contributions for the purposes of determining federal income tax treatment [40 ILCS 5/16-152.1(d)].

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- b) Prior to the member's election to have his or her employer pick up the member's upgrade and/or optional service contributions, the member shall first establish the member's eligibility to purchase optional service credit pursuant to Section 16-127 of the Pension Code (40 ICS 5/16-127), to repay a refund pursuant to Section 16-151 of the Pension Code (40 ICS 5/16-151), or to upgrade the benefit formula in accordance with Section 129.1 of the Pension Code (40 ICS 5/16-129.1).
- c) After establishing an upgrade and/or optional service contribution balance and electing to have the ~~optional~~ contributions picked up on a before-tax basis, the member shall contact the System prior to the anticipated enrollment date and request that an irrevocable payroll deduction authorization be prepared and sent to the member.
- d) To participate in the payroll deduction program, the member shall execute a binding, irrevocable payroll deduction authorization that is furnished to the member by the System (40 ICS 5/16-132.1(d)).
- 1) In the agreement, the member shall confirm that he or she is employed by the employer on a full-time basis.
 - 2) The amount of the upgrade and/or optional service contribution balance as of the enrollment date and the type(s) of optional service and/or upgrade shall be indicated on the authorization form.
 - 3) The amount to be deducted on a monthly basis shall be clearly indicated on the authorization form. The monthly deduction shall remain constant except for the final payment, which may be less than the stated amount. The minimum monthly deduction must equal the lesser of the amount owed or \$50. However, if the authorization is for an upgrade balance feature, the maximum term allowed for the payment of such type of service shall be 5 years.
 - 4) The rate of interest shall equal the regular interest rate established in Section 16-112 of the Pension Code (40 ICS 5/16-112) in effect on the enrollment date. However, no interest shall be charged to a member for that portion attributable to an upgrade contribution.
 - 5) The enrollment date shall be determined as follows:
 - A) If the deductions will occur on a periodic basis for more than one month, the enrollment date shall be the first day of the calendar quarter after the execution of the payroll deduction authorization by the member and on behalf of the employer.
 - B) If the deductions will occur during only one calendar month, the enrollment date shall be the first day of the calendar month in which the deduction will be made after the execution of the payroll deduction authorization by the member and on behalf of the employer.
 - 6) The execution and acceptance of the payroll deduction authorization must occur prior to the enrollment date.
 - 7) The payroll deduction authorization shall be irrevocable when the

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- first deduction is made from the member's pay upon the first day of the pay period in which the first deduction will be made. An irrevocable payroll deduction authorization may only be terminated in accordance with subsection (h) below.
- 8) The System will accept direct payments from the member to pay for separate upgrade balances not covered by an irrevocable payroll deduction authorization. A member, who has a valid, irrevocable payroll deduction authorization in effect, shall be prohibited from making after-tax contributions or authorizing rollovers for the purpose of reducing his or her optional service contribution balance.
 - 9) A member may have a separate agreement for each type of optional service of identifiable upgrade cost.
 - A) An agreement may cover more than one type of optional service and/or upgrade cost.
 - B) A member shall have only one agreement with an employer for each type of optional service and/or upgrade cost, unless additional optional service is based upon employment or other qualifying event occurring after the enrollment period for the previous authorization for the same type of optional service and/or upgrade cost.
 - 10) A payroll deduction authorization containing an unapproved change is void. ~~The authorization form may not be altered in any way or manner--altered forms are void.~~
 - e) The member shall forward the executed payroll deduction authorization to the member's employer.
 - f) A duly-authorized representative of the employer shall execute the payroll deduction authorization on behalf of the employer prior to its enrollment date.
 - 1) Prior to acceptance, the duly-authorized representative of the employer shall determine that:
 - A) the member is employed by the employer on a full-time basis; and
 - B) the irrevocable payroll deduction authorization does not contain any handwriting other than the signature of the member and the date upon which the member executed the authorization; and
 - C) the date on which the authorization is presented to the employer is prior to the enrollment date stated in the authorization.
 - 2) Upon accepting the payroll deduction authorization, the duly-authorized representative of the employer shall:
 - A) retain the upper portion of the authorization for its records; and
 - B) sign the lower portion of the authorization and remit it to the Teachers' Retirement System at the address shown thereon prior to the first remittance.
 - 3) The member's employer shall pick up the contributions from the

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- same source of funds that is used to pay earnings to the member.
- 4) Prior to or on the 15th day of the month following the month in which the deduction is made, the employer shall:
 - A) remit to the System the payroll deduction by:
 - i) check, cashier's check, or money order, along with an approved TRS remittance advice form; or
 - ii) by electronic fund transfer; and
 - B) send the System a mechanically-produced paper report that includes:
 - i) each participating member's name, social security number, and the amount remitted on behalf of each member; and
 - ii) the name and social security number of each member who was scheduled to have an amount remitted but who had a qualifying event that terminated the agreement or who had an event that suspended the agreement and the reason or reasons for such termination or suspension.
 - 5) The employer shall withhold the amount stated in the irrevocable payroll deduction authorization until the balance for which the authorization was made is paid in full or until such time that a qualifying event occurs that terminates the authorization for a particular member. Prior to the month in which the last payment will be made, the System shall inform the employer and the member of the amount of the last payment as well as the month in which the last payment is to be made, except for agreements of less than two months.
 - 6) The employer shall not remit any payroll deduction program any ~~periodic~~**optional** contributions on behalf of a member directly to the System without such contributions having been made through this payroll deduction program.
 - 9) A payroll deduction authorization shall be suspended (rather than terminated) if the member is not receiving a salary from the employer with whom the member made the authorization agreement for a period of time not to exceed one year and is promised renewed employment at the end of the period or has the right of re-employment pursuant to Section 24-12 of the School Code [105 ILCS 5/24-12]. At the end of the suspension period:
 - 1) if the member is not re-employed within one year after the beginning of the suspension period, the authorization shall be terminated in accordance with subsection (b) below; or
 - 2) if the member is re-employed, the employer shall deduct the amount stated in the agreement until the balance is paid in full or a qualifying event occurs that would terminate the authorization.
 - b) A payroll deduction authorization terminates:
 - 1) upon the payment in full of the balance (including interest) for which the authorization was made; or
 - 2) after the occurrence of a qualifying event.

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- A) The term "qualifying event" is defined as:
 - i) the death of the member; or
 - ii) the disability of the member; or
 - iii) the retirement of the member; or
 - iv) the termination of the member's employment status.
- B) The phrase "disability of the member" is defined as the cessation of salary from the employer due to the inability of the member to perform the duties of his or her position for an expected period of one year or more.
- C) The phrase "termination of the member's employment status" is defined as:
 - i) the change of the member's full-time employment status to a substitute status or a part-time status, but does not include the change from a full-time covered position to a full-time non-covered position with the same employer; or
 - ii) the resignation or other termination of employment with the employer; or
 - iii) a suspension period that is greater than one year.
- 3) Upon termination of a non-upgrade-related payroll deduction authorization prior to the balance being paid in full:
 - A) the member may pay the remainder in full by an after-tax lump sum payment, by a rollover, or by executing a new payroll deduction authorization form with another employer; or
 - B) if the member does not pay the remainder in full prior to retirement and:
 - i) if the payment was for optional service credit, the portion of the optional service credit paid shall be credited to the member's account; or
 - ii) if the payment was for a repayment of a refund, the amount contributed shall be refunded to the member.
- 4) Upon termination of an upgrade-related payroll deduction authorization prior to the balance being paid in full, the provisions of 80 Ill. Adm. Code 1650.391 and 1650.392 shall apply.
- i) For purposes of this Section:
 - 1) The term "employer" shall mean the State of Illinois, excluding any State entity to the extent its employees are not paid through the State Comptroller and any employer of a teacher as defined in 40 ILCS 5/16-106 ~~that is required or allowed to participate in the retirement program administered by the System.~~
 - 2) The phrase "type of optional service" shall mean:
 - A) the following types of optional service credit described in Section 16-127 of the Pension Code [40 ILCS 5/16-127]: prior service as a teacher, out-of-system service, military service, General Assembly service, leaves of absence (including pre-1983 pregnancy and adoption leaves),

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- substitute teaching, and part-time teaching; and
- B) the repayment of a refund pursuant to Section 16-151 of the Pension Code [40 ILCS 5/16-151].; and
- C) the upgrade of established service pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1]; and
- B) the upgrade of the following types of optional service credit described in Section 16-127 of the Pension Code: (a) 16-127.1; prior service as a teacher; out-of-system 16-127.2; prior service as a general assemblyman; leave of absence (including pre-1983 pregnancy and adoption leave); substitute teaching; and part-time teaching; and
- B) the upgrade of the repayment of a refund pursuant to Sections 16-129.1 and 16-151 of the Pension Code [40 ILCS 5/16-129.1; 16-151].
- 3) The phrase "a member who is employed on a full-time basis" shall mean:
- A) a full-time teacher as defined in Section 16-106.1 of the Pension Code [40 ILCS 5/16-106.1]; or
- B) if not currently a teacher under the provisions of Section 16-106 of the Pension Code [40 ILCS 5/16-106], a member who is determined to be employed full-time in accordance with the rules and practices of such employer.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1650.357 Employer Payment of Member's Optional Service and/or Upgrade Contribution Optional Contribution Balance

An employer may make a payment of a member's optional service and/or upgrade contribution balance (see 80 Ill. Adm. Code 1650.356(b)) on behalf of the member once per plan year, subject to the following conditions:

- a) If the member does not have a payroll deduction authorization (80 Ill. Adm. Code 1650.356), the payment shall be either:
- 1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made; or
 - 2) paid as an after-tax contribution for which the member is subject to federal income tax in the year in which the contribution is made.
- b) If the member has a payroll deduction authorization (80 Ill. Adm. Code 1650.356) and the employer payment is made prior to the payroll deduction authorization becoming irrevocable (see 80 Ill. Adm. Code 1650.356(d)(7)), the payment shall be either:
- 1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in

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- the year in which the contribution is made; or
- 2) paid as an after-tax contribution for which the member is subject to federal income tax in the year in which the contribution is made.
- c) If the member has a payroll deduction authorization (80 Ill. Adm. Code 1650.356) and the employer payment is made after the payroll deduction authorization becomes irrevocable (see 80 Ill. Adm. Code 1650.356(d)(7)), the payment shall be either:
- 1) picked up by the employer in accordance with section 414(h)(2) of the Internal Revenue Code of 1986, as amended (26 USC 414(h)(2)) so that the contribution is not subject to federal income tax in the year in which the contribution is made if the authorization for the pick up is made by the employer prior to the date on which the payroll deduction agreement becomes irrevocable; or
 - 2) returned to the employer if the authorization to pick up the contribution is made after the date on which the payroll deduction agreement becomes irrevocable or if the payment is supposed to be an after-tax contribution.
- d) The employer shall certify to the System whether the payment is made on an after-tax basis or picked up pursuant to a contractual obligation, such as a collective bargaining agreement or an individual employment contract, or pursuant to a resolution of the governing body of the employer.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1650.391 Optional 2.2 Upgrade of Earned and Credited Service

a) Applying to upgrade.

- 1) Effective July 1, 1998, a member may apply to upgrade the graduated rate applicable to all of the member's years of service earned and credited before July 1, 1998, to the 2.2% flat rate described in subsection (a)(B)(1) of Section 16-133 of the Pension Code [40 ILCS 5/16-133] by making the optional contribution specified in subsection (b).
- 2) A member may not elect to qualify for the upgraded rate for only a portion of his or her creditable service earned before July 1, 1998 [40 ILCS 5/16-129.1(a)].
- 3) The member shall make application by completing a written upgrade application and sending it to the System.
- 4) The effective period of the application shall begin as of the date on which the application is received by the System and shall end upon the expiration of a 60-month period commencing on the August 1 following the receipt of the application by the System or payment in full, whichever is first. However, in order to provide a reasonable transition period, if the member applies for the upgrade on or before December 1, 1998, the aforementioned

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60-month period shall commence on August 15, 1998, and the optional contribution necessary for upgrade shall be calculated as of August 15, 1998.

5) The application may only be terminated upon the member's death, at the end of the effective period, or upon the member's failure to make the full contribution in a timely fashion.

b) Determining the optional contribution necessary for upgrade.

1) The optional contribution necessary for the upgrade shall be an amount equal to 1.0% of the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, multiplied by the positive number of years of creditable service earned by the member before July 1, 1998, or 20, whichever is less. This contribution shall be reduced by 1.0% of that salary rate for every 3 full years of creditable service earned by the member after June 30, 1998. The contribution shall not in any event exceed 20% of that salary rate. [40 ILCS 5/16-129.1(b)]

A) The "member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs" shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].

B) When determining the optional contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.

C) For a member who is not currently employed by a covered employer, the highest salary rate of the member in the last 4 school years in which service was rendered shall be used for the calculation.

D) If a member has less than one year of creditable service in any of the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.

E) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the optional contribution necessary for the upgrade feature.

F) For purposes of this Section, optional creditable service established by a member shall be deemed to have been earned at the time of employment or other qualifying event upon which the service is based, rather than at the time

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credit was established in this System [40 ILCS 5/16-129.1(d)].

2) The contribution calculated in accordance with this subsection (b) shall be paid in full by one or more of the following methods:

A) A single lump sum to be paid prior to the end of the effective period of the application or prior to retirement, whichever is earlier, through an after-tax contribution, through the payroll deduction program, or through a rollover (see 80 Ill. Adm. Code 1650.480); or

B) A periodic payment in substantially equal installments over a period of time not to exceed 60 months, as a deduction pursuant to an irrevocable payroll deduction authorization described in 80 Ill. Adm. Code 1650.356, the last deduction for which shall be prior to the end of the effective period of the application or prior to retirement, whichever is earlier; or

C) If the member becomes an annuitant before June 30, 2003, a periodic payment in substantially equal monthly installments over a 24-month period, by a deduction from the annuitant's monthly benefit commencing at retirement. The last deduction must be prior to the end of the effective period of the application.

3) If a combination of methods is chosen by the member:

A) the total period in which the member's payments are made shall not exceed the effective period of the application; and

B) the lump sum payment may not be made by the member during the effective period of a payroll deduction authorization.

c) Failing to make contribution.

1) A member has failed to make the full contribution in a timely fashion:

A) if the full contribution is not paid within the effective period of the application; or

B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the application be terminated at least 4 months after ceasing to teach.

2) If the member has failed to make the full contribution in a timely fashion, the application shall be terminated and shall be no longer in effect.

3) If the member has failed to make the full contribution in a timely fashion, the payments made under this Section shall be refunded to the member, without interest [40 ILCS 5/16-129.1]. However, if the member is able to reapply, and does reapply, for the 2.2 upgrade feature prior to the refund being made, the amount of the refund shall be used as a partial lump sum contribution towards the cost of the 2.2 upgrade feature.

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- 4) *If the member dies before making the full contribution, the payments under this Section, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138 of the Pension Code [40 ILCS 5/16-129.1].*
- d) A member shall not be able to reapply for the 2.2 upgrade feature during such time that an application is in effect.
- e) The amount due under this Section shall be recalculated at retirement if 3 or more years of post-June 30, 1998, service has been credited to the member's record subsequent to the member's upgrade application.
- f) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1 based upon the earliest to the latest payments.
- g) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 23 Ill. Reg. _____, effective _____.)

Section 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade Application

- a) This Section shall apply only to a member who has elected to upgrade the graduated rate applicable to all of the member's years of service earned and credited before July 1, 1998, pursuant to Section 16-129.1 of the Pension Code [40 ILCS 5/16-129.1] and 80 Ill. Adm. Code 1650.391 and who has less than 20 years of service earned and credited before July 1, 1998.
- 1) The member shall make application by completing a written upgrade application and sending it to the System.
- 2) A member participating in a pre-July 1, 1998 service upgrade may upgrade any optional service credit added within the 5-year period provided in Section 16-129.1(b)(ii) at the same salary rate as that of the original upgrade, provided that the added optional service upgrades are paid off within the 5-year period. The application for the upgrade may occur at any time after the optional contribution balance has been established for the underlying optional service. However, if the member has an optional contribution balance on or establishes an optional contribution balance prior to the January 15 following the one year anniversary of the date of application for earned and credited service under 80 Ill. Adm. Code 1650.391, the date of application for such optional contribution balance shall be the date of application for earned and credited service under 80 Ill. Adm. Code 1650.391.
- 3) The effective period of the application shall begin as of the

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date on which the application is received by the System and shall end upon the expiration of a 60-month period commencing on the August 15 following the receipt of the application by the System or payment in full, whichever is first. However, in order to provide a reasonable transition period, if the member applies for the upgrade on or before December 1, 1998, the aforementioned 60-month period shall commence on August 15, 1998, and the optional contribution necessary for upgrade shall be calculated as of August 15, 1998.

- 4) The application may only be terminated upon the member's death, at the end of the effective period, or upon the member's failure to make the full contribution in a timely fashion.
- b) A member subject to this Section shall be required to pay an upgrade charge for any optional service credited to the member's service on or after July 1, 1998, if the time of employment or other qualifying event upon which the service is based is prior to July 1, 1998.
- 1) The upgrade charge shall only apply to the number of years of optional service being credited, which is equal to the lesser of:
- the number of years being upgraded; or
 - the remainder of the following formula: 20 minus the number of years of creditable service earned and credited before July 1, 1998, which are being or were previously upgraded pursuant to 80 Ill. Adm. Code 1650.391 or pursuant to this Section minus one year for every 3 full years of creditable service earned and credited after June 30, 1998, which were not used in previous calculations under this subsection (b).
- 2) For members not subject to subsection (a)(2) of this Section, the ~~the~~ optional contribution necessary for the upgrade under this Section shall be an amount equal to 1.0% of the member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs, multiplied by the number of years of service determined in accordance with subsection (b)(1).
- A) The member's highest salary rate in the 4 consecutive school years immediately prior to but not including the school year in which the application occurs shall be based upon the 4 most recent employer's annual reports, as amended, required to be filed in accordance with Section 16-155 of the Pension Code [40 ILCS 5/16-155].
- B) When determining the optional contribution necessary for the upgrade, that part of a member's salary with the same employer that exceeds the annual full-time salary rate for the preceding year by more than 20% shall be excluded.
- C) For a member who is not currently employed by a covered employer, the highest salary rate of the member in the last 4 school years in which service was rendered shall be used for the calculation.
- D) If a member has less than one year of creditable service in

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any of the 4 consecutive school years immediately prior to but not including the school year in which the application occurs and was a part-time non-contractual teacher or a substitute teacher in such year, the annualized salary rate for the school year shall be determined by dividing the creditable service fraction into the salary paid to the member during that school year.

E) The service credit given to a member at retirement pursuant to Section 16-127(b)(6) of the Pension Code [40 ILCS 5/16-127(b)(6)] shall be disregarded for the purpose of the calculation of the optional contribution necessary for the upgrade feature.

F) For purposes of this Section, optional creditable service established by a member shall be deemed to have been earned at the time of employment or other qualifying event upon which the service is based, rather than at the time the credit was established in this System [40 ILCS 5/16-129,1(d)].

3) The contribution calculated in accordance with this subsection methods:

(a) shall be paid in full by one or more of the following

A) a single lump sum to be paid prior to the end of the effective period of the application or prior to retirement, whichever is earlier, through an after-tax contribution, through the payroll deduction program, or through a rollover (see 80 Ill. Adm. Code 1650.480); or

B) a periodic payment in substantially equal installments over a period of time not to exceed 60 months, as a deduction pursuant to an irrevocable payroll deduction authorization described in 80 Ill. Adm. Code 1650.356, the last deduction for which shall be prior to the end of the effective period of the application or prior to retirement, whichever is earlier; or

C) if the member becomes an annuitant before June 30, 2003, a periodic payment in substantially equal monthly installments over a 24-month period, by a deduction from the annuitant's monthly benefit commencing at retirement. The last deduction must be prior to the end of the effective period of the application.

4) If a combination of methods is chosen by the member:

A) the total period in which the member's payments are made shall not exceed the effective period of the application; and

B) the lump sum payment may not be made by the member during the effective period of a payroll deduction authorization.

c) Failing to make contribution.

1) A member has failed to make the full contribution in a timely fashion:

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A) if the full contribution is not paid within the effective period; or

B) upon termination of employment as a teacher for any cause other than death or retirement, if the member requests in writing that the application be terminated at least 4 months after ceasing to teach.

2) If the member has failed to make the full contribution in a timely fashion, the application shall be terminated and shall be no longer in effect.

3) If the member fails to make the full contribution within the appropriate time period described in subsection (c)(1), and:

A) if the payment is for the repayment of a refund, the amount contributed for both the refund and upgrade shall be refunded to the member, without interest; or

B) if the payment is for optional service other than a refund, and:

i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or

ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the payments made for the upgrade shall be refunded to the member, without interest.

C) However, if the reason for the failure is the death of the member:

i) if the member has made the full upgrade contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391, the portion of the upgraded optional service credit determined by the System to have been paid shall be credited to the member's account; or

ii) if the member fails to make the full contribution for the years of service earned and credited prior to July 1, 1998, pursuant to 80 Ill. Adm. Code 1650.391 or if the payment is for a refund, the payments made for the upgrade, together with regular interest thereon, shall be refunded to the member's designated beneficiary for benefits under Section 16-138 of the Pension Code [40 ILCS 5/16-129,1].

D) The date of application for the purpose of determining the amount of optional service credit paid shall be deemed to be:

i) if pursuant to subsection (c)(3)(B)(i) above, the date upon which the failure to contribute in a timely

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fashion occurred; or

- ii) if pursuant to subsection (c)(3)(i) above: the date of the application which terminated upon the member's death if the member had applied for the upgrade prior to his or her death; or the date of death if the member had not previously applied for the upgrade.
- d) A member shall not be able to reapply for the 2.2 upgrade feature during such time that an application is in effect for the same type of optional service.
- e) The amount due under this Section shall be recalculated at retirement if 3 or more years of post-June 30, 1998, service has been credited to the member's record subsequent to the member's upgrade.
- f) Interest on upgrade refunds shall be calculated from the first day of the month following the date of any payment to the date of refund as provided in 40 ILCS 5/16-129.1(b) based upon the earliest to the latest payments.
- g) In the event an actuarial calculation provides a member a greater benefit than an upgraded final average salary calculation, the System shall refund the upgrade cost plus interest to the member.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section 1650.450 Definition of Salary

- a) Any emolument of value recognized by the System that is received, actually or constructively, by a member in consideration for services rendered as a teacher, within all applicable limits and restrictions on qualified pension plans contained in the Internal Revenue Code, 26 USC 401(a) et seq. Subsection (b) of this Section lists the more common elements of compensation that are recognized by the System as "salary," for purposes of illustration. For further illustration, subsection (c) mentions several examples of items not recognized by the System as "salary." However, "salary" within the meaning of Section 16-121 of the Act is not limited to the items so enumerated.
- b) Examples of salary amounts to be reported to the System include:
 - 1) The gross amount of wages or compensation earned or accruing to the member during the legal school term or the length of his or her employment agreement, whichever is greater, in a function requiring certification as a teacher, and payable by the employer at termination of service;
 - 2) Wages or compensation for overtime or extra service;
 - 3) The amount of back salary awarded to a member as a result of a settlement or judgment obtained due to a disputed dismissal, suspension or demotion. Court costs, attorney's fees, other

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compensatory damages and punitive damages shall not be reportable as salary. The back salary amount reported to the System under this Section shall be equal to the amount which the member would have earned had the dispute not occurred, regardless of the actual amount paid;

- 4) Severance pay (e.g., retirement incentives, lump sum bonuses, payments for unused vacation and sick days) received by member or becoming due and payable to member prior to or concurrent with receipt of final paycheck for regular earnings;
- 5) Contributions made by or on behalf of the member to qualified deferred compensation plans (Sections 401(a) and 457 of the Internal Revenue Code), salary reduction plans or tax sheltered annuities under section 403(b) of the Internal Revenue Code; and
- 6) Amounts that would otherwise qualify as salary under subsections (b)(1) through (b)(5) above but are not received directly by the member because they are used to finance benefit options in a flexible benefit plan; provided, however, that to be reportable, a flexible benefit plan must be available to teachers on a non-discriminatory basis and cannot include non-qualifying deferred compensation. Effective July 1, 1999, flexible benefit plans need not be made available to teachers on a non-discriminatory basis. For the System's purposes, a flexible benefit plan is an option offered by an employer to its employees covered under the System to receive an alternative form of creditable compensation in lieu of employer-provided insurance.

c) Examples of amounts not reportable to the System include:

- 1) Any severance payment (e.g., retirement incentives, lump sum bonuses, payments for unused vacation and sick days) becoming due and payable to member subsequent to receipt of final paycheck for regular earnings;
- 2) Any lump sum payment made after the death of the member;
- 3) Expense reimbursements, expense allowances, or fringe benefits unless included in a reportable flexible benefit plan;
- 4) Any monies received by the member under the Workers' Compensation Act or the Workers' Occupational Diseases Act;
- 5) Any amount paid in lieu of previously nonreportable benefits or reported in lieu of previously non-reported compensation where the conversion occurs in the last years of service and one of the purposes is to increase a member's average salary. If the member's non-creditable or non-reported compensation in any of the last seven creditable school years of employment exceeds that of any other subsequent year, the System will presume the difference, unless resulting from the terms of a collective bargaining agreement, to have been converted into salary and wages in the subsequent year for the purpose of increasing final average salary. To overcome the presumption, the member must submit documentary evidence to the System which clearly and

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convincingly proves that none of the purposes of the change in compensation structure was to increase average salary (for example, changes in collectively bargained agreements applicable to all individuals covered by the agreement, change of employer, change in family status);

- 6) Any amount paid by an employer as the employer's one time contribution (or on behalf of the employee as the employee's one-time contribution) required by the System as part of the statutory early retirement option in Section 16-133.2 of the Act; Options to take salary in lieu of employment-related expense allowances or reimbursements;
- 8) Employer payment of the member's one-half of one percent health insurance contribution.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 1650.451 Reporting of Conditional Payments

Payments that are conditioned upon the occurrence of a future event (e.g., retirement) shall be reported in the school year paid to the member. ~~in which the condition upon which payment is predicated occurs~~; However, if the condition upon which payment is predicated does not occur and the payment is repaid to the employer, an adjustment is required to remove the payment from the school year in which the payment was originally reported.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

Section 1650.571 Payment of Monthly Survivor Benefits to a Trust

- a) A member may designate a trust to receive monthly survivor benefits on behalf of a dependent beneficiary.
- b) However, to do so, the trust must provide that the survivor benefit annuity will be used solely for the care and benefit of the member's dependent beneficiary.
- c) Prior to the processing of a claim for survivor benefits, the trustee of the trust shall furnish the System that part of the trust demonstrating that the conditions set forth in subsection (b) of this Section are met.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 1650.575 Full-time Student - Receipt of Survivor Benefits Until Age 22

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- a) For purposes of 40 TICS 5/16-140(4), a full-time student shall be one who is enrolled in a course of study in an accredited educational institution (other than a program of study by correspondence), and who is carrying a full-time workload as determined by the educational institution during the regular school year for the course of study the student is pursuing.
- b) Accredited educational institutions include schools, colleges, universities, and post-secondary vocational institutions whose courses of study are approved by appropriate state or federal educational accreditation authorities.
- c) A regular school year is the eight to nine months which includes two semester terms or three quarter terms (or their equivalent), excluding the summer term. Terms that begin after April 15 and end before September 16 are considered summer terms.
- d) Survivors' benefits shall be payable during the period between regular school years if the benefit recipient was a full-time student the preceding semester term or quarter term (or their equivalent).
- e) To verify that an eligible child is a full-time student, the System must receive a certification signed by an official of the educational institution confirming that the student is a full-time student as provided in subsection (a) above.
- f) Payment of survivor benefits under this Section will begin on the 15th of the month preceding the start of the full-time student's first semester or quarter of matriculation.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART L: BOARD ELECTION PROCEDURES

Section 1650.1010 Petitions

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System, upon request of any individual or entity.
- b) A valid petition nominating a candidate for a vacant teacher position or a vacant annuitant position on the System's Board of Trustees shall meet the following requirements:
 - 1) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate pursuant to subsection (a) or (b) of Section 1650.1000. A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures thereon must be original signatures;
 - 2) Each signature of an eligible voter must be accompanied by the signing person's name (printed), social security number, street address, city, and state;
 - 3) The petition shall bear the notarized signature of the individual

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who circulated the petition for signatures, verifying that the signatures contained thereon were signed in that individual's presence, are genuine, and that to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so as provided in subsection (a) or (b) of Section 1650.1000;

- 4) Petitions shall be filed with the Board's secretary not less than 90 nor more than 120 days prior to the election day;
- 5) Petitions filed less than 90 days prior to the election day are invalid and will be returned to the party submitting such petition for filing; and
- 6) Petitions filed more than 120 days prior to the election day will not be accepted and will be returned to the party submitting such petition for filing. Nothing in this subsection precludes the timely re-filing of petitions filed more than 120 days prior to the election day.
- c) The Board's secretary shall determine the validity of all petitions not less than 75 days prior to the election day.
- d) Any individual may, upon reasonable notice to the System, examine the petitions which have been filed with the System with respect to the election to take place that year; provided, however, that in order to protect the signing teachers' and annuitants' rights to privacy and confidentiality as to their names, addresses, and social security numbers, such examination shall only take place subject to the following limitations:
 - 1) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board's secretary as provided above in subsection (c) of this Section;
 - 2) Petitions may not be removed from the System's offices, copied, or duplicated by any means; and
 - 3) Petitions, including any information thereon, shall not be subject to production or disclosure under the provisions of the Illinois Freedom of Information Act (FOIA) [5 ILCS 140].

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Franchise Disclosure Act2) Code Citation: 14 Ill. Adm. Code 2003) Section Numbers:Adopted Action:

200.100	Amended
200.101	Repealed
200.104	Amended
200.110	Amended
200.112	Amended
200.114	Amended
200.115	Amended
200.116	New
200.117	New
200.118	New
200.119	New
200.120	New
200.201	Amended
200.202	Amended
200.301	Amended
200.304	Amended
200.305	Repealed
200.306	New
200.402	Amended
200.407	Amended
200.408	Amended
200.409	Amended
200.411	Amended
200.500	Amended
200.502	Amended
200.503	Amended
200.507	Amended
200.600	Amended
200.602	Repealed
200.603	Amended
200.604	Amended
200.605	Amended
200.610	New
200.800	Repealed
200.900	Amended

APPENDIX A

ILLUSTRATION A

ILLUSTRATION C

ILLUSTRATION D

ILLUSTRATION E

ILLUSTRATION F

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ILLUSTRATION G Amended
 ILLUSTRATION L Amended
 ILLUSTRATION M Amended
 ILLUSTRATION N Amended
 APPENDIX B Amended
 ILLUSTRATION B Amended
 ILLUSTRATION C Amended
 ILLUSTRATION D Amended
 APPENDIX C Amended
 ILLUSTRATION A Amended
 ILLUSTRATION B Amended
 ILLUSTRATION C Amended
 APPENDIX D Amended
 ILLUSTRATION A Amended
 ILLUSTRATION C Amended
 APPENDIX E Amended
 APPENDIX F Amended
 ILLUSTRATION A Amended
 ILLUSTRATION B Amended

4) Statutory Authority: Section 705/32 of the Franchise Disclosure Act of 1987 (815 ILCS 705/32)

5) Effective Date of Amendments: September 7, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation's by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: June 4, 1999, 23 Ill. Reg. 6583

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version:

Various format and punctuation changes were suggested by JCAR and adopted by the Attorney General.

The reference to "administrative agencies" in 200.201 (a)(13) was clarified by indicating that the reference is to other franchise regulatory states and the FTC.

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Public comment resulted in the repeal of 200.201 (a)(13) that referred to the federal Franchise Rule, as being an unnecessary consideration when reviewing an exemption request.

Hearing officer qualifications were rewritten in 200.402 to comply with 5 ILCS 100/10-30.

Lines were added to 200.Appendix C, Illustration B which will identify the current escrowee bank on the release form submitted by the franchisor.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The Franchise Disclosure Act was amended in 1998, which necessitated amendments to Sections 200.100, 119, 305, 610 and 200.Appendix A, Illustration L, and repeal 200.101 and 800. The only disclosure format permitted now is the UFOC; the definition of "material" was revised to parallel the securities definition; and a specific period of time is established within which denial of a new registration can be rescinded if deficiencies are corrected. Pre-use advertising review by the Attorney General is also eliminated.

Various terms are clarified in 200.104, 115, 116, 117, 118, 202 and 306, including "franchise fee", "offer" regarding trade shows, "franchise broker", "isolated transaction", and "internet offers". Franchise Broker requirements were clarified and simplified in 200.116, 202 and 900.

16) Information and questions regarding these adopted amendments shall be directed to:

Robert Tingler
 Office of Attorney General
 Franchise Bureau
 100 W. Randolph Street
 12th Floor, Room 178
 Chicago, IL 60601
 312-814-2892

The full text of the adopted amendments begins on the next page:

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER II: ATTORNEY GENERAL

PART 200

FRANCHISE DISCLOSURE ACT

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200.100	Disclosure Statement (Repealed)
200.101	Marketing Plan or System
200.102	Substantially Associated
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200.105	Bona Fide Wholesale and Retail Price
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SUBPART B: OPINIONS, EXEMPTIONS

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SUBPART D: HEARINGS

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200.401	Hearing Officer
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Section	Assurance of Financial Ability to Fulfill Obligations
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200.504	Certificate of Deposit
200.505	Release of Certificate of Deposit
200.506	Deferral of Franchise Fee
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SUBPART F: REGISTRATION REQUIREMENTS

Section	Original Registration
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200.601	Notification of Registration (Repealed)
200.602	Annual Report
200.603	Amendment Application
200.604	Final Circular Submission
200.605	Multiple Filings
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200.608	

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200.609 Waiver
200.610 Denial of Initial Registration

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REQUIREMENTS-RESPONSIBILITIES FOR FILING

Section
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200.701 Number of Applications
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SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION

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200.800 Failure to Diligently Prosecute Application (Repealed)

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200.900 Documents to File
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APPENDIX A Franchise Registration Forms
ILLUSTRATION A Uniform Franchise Registration Notification Application
Page

ILLUSTRATION B Supplemental Information
ILLUSTRATION C Sales Agent Salesperson Disclosure Form
ILLUSTRATION D Uniform Consent to Service of Process
ILLUSTRATION E Corporate Acknowledgment
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ILLUSTRATION H Consent of Accountant
ILLUSTRATION I UFOC Cross Reference Sheet (Repealed)
ILLUSTRATION J FTC Cross Reference Sheet (Repealed)
ILLUSTRATION K Acknowledgment of Receipt (Suggested Format) (Repealed)
ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

ILLUSTRATION M Joint Venture Agreement & Acknowledgment
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APPENDIX B Franchise Broker Registration Forms
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ILLUSTRATION D Broker Guaranty of Performance

APPENDIX C Escrow Forms

ILLUSTRATION A Escrow Agreement
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APPENDIX D Guaranty Forms

ILLUSTRATION A Guaranty of Performance
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APPENDIX E Surety Bond

APPENDIX F Certificate of Deposit Forms

ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit
ILLUSTRATION B Franchisee's Petition for Release of Certificate of Deposit

AUTHORITY: Implementing and authorized by the Franchise Disclosure Act of 1987 [815 ILCS 705].

SOURCE: Filed April 25, 1977, effective May 5, 1977, by the Office of the Secretary of State; transferred to the Attorney General by P.A. 80-31, effective February 28, 1978; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1367, effective January 13, 1984; emergency amendments at 12 Ill. Reg. 1124, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 9424, effective May 18, 1988; amended at 13 Ill. Reg. 15365, effective September 19, 1989; peremptory amendment at 18 Ill. Reg. 2522, effective January 31, 1994; amended at 19 Ill. Reg. 16950, effective January 1, 1996; expedited correction 20 Ill. Reg. 4458, effective January 1, 1996; amended at 23 Ill. Reg. 11561, effective 7/1/89.

SUBPART A: DEFINITIONS

Section 200.100 Act

The "Act" means the Franchise Disclosure Act of 1987 [815 ILCS 705], as amended---from time to time---(fra---45-53)---effective---January---1---1988)---hereinafter cited as Section 1 through Section 44 46 of the Act.

(Source: Amended at 23 Ill. Reg. 11561, effective 7/1/89)

Section 200.101 Disclosure Statement (Repealed)

The Administrator deems the following disclosure formats to be in full compliance with the disclosure requirements of Section 5 of the Act. No format other than the following may be used, and the following two formats may not be intermingled:

a) The Uniform Franchise Offering Circular (UFOC) amended by the North

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American Securities Administrators Association, Inc. on April 25, 1993 without further additions or amendments in accordance with the Federal Trade Commission Regulation Rule, entitled "Disclosure-Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR 436) as of January 1, 1994, and
b) The disclosure requirements of the Federal Trade Commission Trade Regulation Rule as of 1993, entitled "Disclosure-Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR 436) effective

(Source: Repealed at 23 Ill. Reg. 11561, effective SEP - 7 1999)

Section 200.104 Franchise Fee

A "franchise fee" within the meaning of Section 3(14) of the Act may be present regardless of the designation given to or the form of the fee, whether payable in lump sum or installments, definite or indefinite in amount, or partly or wholly contingent on future sales, profits, or purchases for of the franchise business, or the sale or transfer of the franchisee's business. A transfer fee will not be considered a franchise fee if it represents reasonable expenses incurred in connection with the transfer.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP - 7 1999)

Section 200.110 Material Change

A change--in--information contained in the disclosure statement or omission of fact is "material" within the meaning of Section 11 of the Act if there is a substantial likelihood that a reasonable prospective franchisee would consider it significant in making a decision to purchase or not purchase the franchise. Without limitation, examples of changes which could be material include:

- a) Any increase or decrease in the initial or continuing fees charged by the franchisor;
- b) The termination, cancellation, failure to renew or reacquisition of a significant number of franchises since the most recent effective date of the Disclosure Statement;
- c) A change in the franchisor's management;
- d) A change in the franchisor's or franchisee's obligations under the franchise or related agreements;
- e) A decrease in the franchisor's income or net worth;
- f) Emissions of significant prospective limitations regarding sources of supply which are known to or should reasonably be anticipated by the franchisor;
- g) Additional litigation or a significant change in the status of

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- i) litigation including:
 - 1) the filing of an amended complaint alleging or involving violations of any franchise law, trade embargement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or breach of contract;
 - 2) the entry of any injunctive or restrictive order relating to the franchisor or the entry of any injunction under any Federal state or Canadian franchise securities anti-trust trade regulation or trade practice law;
 - 3) the entry of a judgment that has or would have any significant financial impact on the franchisor. Such a judgment is considered to have significant financial impact if it equals 1% or more of the current assets of the franchisor and its subsidiaries on a consolidated basis; and
 - h) the reorganization of the franchisor or its merger into a corporation other than the registrant in a merger where the surviving corporation changes its name to that of the original registrant--a material change has still occurred.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP - 7 1999)

Section 200.112 Administrator

"Administrator" as used in this Part these Rules means the Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706. (217)782-1090. Conferences may be arranged by appointment. Persons with questions concerning the Act are encouraged to telephone the Franchise Bureau Division.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP - 7 1999)

Section 200.114 Negotiated Change

As stated in Section 11 of the Act, an amendment is not required when changes in the franchise agreement are made pursuant to negotiations between the franchisor and franchisee. However, if the same change is consistently made in additional consecutive franchise sales and it is a material change, it is considered to be a permanent change in the franchise agreement and an Amendment reflecting the change must be filed within the applicable time period.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP - 7 1999)

Section 200.115 Tradeshow Offer

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~~"offer or offer to sell"~~ includes participation in a trade show by a franchisor which is attended by prospective franchisees. A franchisor shall not participate as an exhibitor at a trade show or otherwise attempt to solicit franchise sales at a trade show held in Illinois, from Illinois residents or persons desiring an Illinois franchise site, unless the franchisor is registered with the Administrator or is otherwise exempt from registration. Accepting the name, address and phone number of prospective franchisees for contact after registration does not constitute an offer or offer to sell.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP 7 1999)

Section 200.116 Franchise Broker

A person shall be deemed to be a franchise broker engaged in the business of representing a franchisor in offering for sale or selling a franchise within the meaning of Section 3(21) of the Act, unless otherwise exempt, if such person provides a prospective franchisee with information about specific franchisees other than the franchisor's name, address and phone number. The expectation or acceptance of a fee contingent upon a franchise sale shall be considered as evidence of franchise broker status unless such fee results from an isolated transaction as defined in Section 200.202.

(Source: Added at 23 Ill. Reg. 11561, effective SEP 7 1999)

Section 200.117 Cooperative

"Cooperative" means a for-profit organization owned and operated, or a nonprofit organization operated, by the wholesale or retail members it serves. A cooperative that operates as, or subsequently purchases, a franchise system must register that system under the Franchise Disclosure Act if the system franchisees are not members of the cooperative with control relatively equal to the other cooperative members.

(Source: Added at 23 Ill. Reg. 11561, effective SEP 7 1999)

Section 200.118 UPOC Disclosure Requirements

References in this Part to a Uniform Franchise Offering Circular (UFOC), disclosure statement, offering circular, or prospectus means a document prepared in compliance with the UPOC Guidelines as adopted by the North American Securities Administrators Association (NASAA) and set forth in Section 200 Appendix A, Illustration E.

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(Source: Added at 23 Ill. Reg. 11561, effective SEP 7 1999)

Section 200.119 Notification

Notification in Section 10 of the Act means the listed documents required to be filed by the franchisor under Section 200.600 and UPOC General Instruction 110.

(Source: Added at 23 Ill. Reg. 11561, effective SEP 7 1999)

Section 200.120 Time Periods Ending on Saturday, Sunday or Holiday

Whenever the Act establishes a filing deadline, whether based upon calendar "days" or "business days" and the date due falls upon a Saturday, Sunday or Holiday when the Office of the Administrator is closed to the public, the party affected is excused from compliance until the next business day when the office is open to the public.

(Source: Added at 23 Ill. Reg. 11561, effective SEP 7 1999)

SUBPART B: OPINIONS, EXEMPTIONS

Section 200.201 Order of Exemption

a) Pursuant to Section 9 of the Act, the Administrator may by Order grant exemptions from the registration and disclosure requirements of the Act. The Administrator will consider whether to issue such an Order upon submission of the following:

- 1) A cover letter describing the basis for the exemption by reference to this Section and to Section 9 of the Act, a list of administrative agencies (other franchise regulatory states and the Federal Trade Commission) that have issued or denied exemptions or opinions with copies of the exemptions or opinions, and a statement of the number of franchises the franchisor intends to sell in Illinois in the ensuing twelve months;
- 2) A description and history of the applicant, the franchise fees and initial investment, and the proposed number of franchise sales in Illinois within the ensuing twelve months;
- 3) A description of the applicant's litigation history as stated in item 3 of the Uniform Franchise Offering Circular (UFOC) which is attached as Appendix A-1 illustration; or
- 4) A description of any bankruptcy petition filed by or against the franchisor or its officers, directors or predecessors within the last fifteen years.

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- 5) A copy of the franchise agreement;
- 6) Copies of all promotional materials;
- 27) A list showing of all Illinois franchise sales and advertisements in Illinois since the most recent UFOC submitted with the exemption application January 17, 1974;
- 8) A list of administrative agencies which have issued or denied exemptions or opinions and copies of the exemptions or opinions;
- 9) A statement of the number of company owned and franchised units in the United States and in Illinois;
- 10) A statement of the number of franchises the franchisor intends to sell in Illinois in the following one year;
- 31) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular UFOC (Appendix A, Illustration L) if required by 16 CFR 436 as of 1993; and
- 41) A certification page (Appendix A, Illustration G), of fact;
- 42) Financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for the most recent fiscal year if the franchisor is exempt under 16 CFR 436;
- b) An exemption is considered in the public interest:
- 1) if the franchisor intends to sell only one or two franchises in Illinois in the ensuing twelve months; and
 - 2) if the litigation and bankruptcy disclosure history described in subsection (a) above is not materially adverse to the interests of prospective franchisees; and
- 3) If the franchisor agrees to timely provide the franchisee with a UFOC disclosure statement Federal Trade Commission prospectus if required by 16 CFR 436 as of 1993 within the time period required by the Federal Trade Commission; and
- 4) If the franchisor obtains a letter from the prospective franchisee's attorney, after issuance of the exemption but within the time period described in Section 5(2) of the Act, stating that he has explained the Act to his client, and the client does not object to issuance of the exemption, and forwards the letter to the Administrator. Prior to procurement of this letter, but after issuance of the order of exemption, the franchisor may solicit franchisees but may not have a contract signed or require a prospective franchisee or subfranchisor to pay consideration.
- c) Application for exemption from Sections 5 and 10 of the Act may be made with regard to the offer and sale of a single unit franchise in which the actual minimum initial investment is in excess of \$1,000,000. The Administrator will consider whether to issue such an Order upon submission of the following:
- 1) The information required by subsection (a) of this Section;
 - 2) A list showing all Illinois franchise sales since the most recent UFOC submitted with the exemption application; and

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- 3) Application documents required by Section 200.600(a)(1) through (7).
- d) Every registered franchise and any franchise exempt under this Section must provide the prospective franchisee with a UFOC disclosure document unless specifically excused from this requirement by the Administrator.
- 1) A cover letter describing the bases for the exemption by reference to this Section and to Section 9 of the Act;
 - 2) A description and history of the applicant and a statement showing all franchise fees and the initial investment and a statement such that the total investment is in excess of \$1,000,000;
 - 3) A statement of the number of franchises the franchisor intends to sell in Illinois in the following year;
 - 4) A description of any litigation brought by a franchisee or franchise regulatory agency against the franchisor during the prior two years; and
 - 5) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular.
- (Source: Amended at 23 Ill. Reg. 11561 effective Sep 7 1999)

Section 200.202 Exemptions by Rule

- a) The offer and sale of a franchise to a bank, savings institution, trust company, interstate carrier or insurance company is exempt from Sections 5 and 10 of the Act.
- b) Isolated transaction
 - 1) If a referral source provides the name of a prospective franchisee to a franchisor and receives a referral or broker fee, but the person making the referral has no involvement in presenting the advantages of that particular franchise system, handles no franchise payments owed to the franchisor, and has made no referral to that franchisor during the preceding 12 months, then such an isolated transaction does not require registration as a franchise broker and does not require the franchisor to provide disclosures concerning the person making the referral in the franchisor's UFOC.
 - 2) If a franchisor obtains a prospective franchisee from an unregistered broker, the franchisor must verify that all representations made to the prospect by the broker and that all required disclosure has been provided. No referral fee or commission shall be paid to the broker until such broker is properly registered with the Administrator or is found to be exempt from registration.
- c) An officer, director or employee of an affiliate or related company of

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the franchisor is exempt from the Broker Application and Registration requirements of Section 13 of the Act, provided that the franchisor files a Sales Agent Disclosure Form with the Administrator for any such person. See Appendix A, Illustration C.

- d) Franchise Trade Show Promoters and persons who organize or manage events, shows or facilities in which franchises are advertised, offered or otherwise promoted are hereby exempt from the requirements of Section 13 of the Act if:

- 1) the person does not receive a fee or other consideration from the exhibitors participating in such event or show other than exhibitor fees; and
- 2) any rent, exhibitor fees or other consideration paid for use of the exhibit space is not contingent or based upon the sale of franchises by the exhibitors or show promoters; and
- 3) the person is in compliance with 16 CFR 436, as amended through May 1, 1999, or is in compliance with an exemption issued by the Federal Trade Commission (contact FTC Consumer Response Center, 600 Pennsylvania Ave. N.W., Washington D.C. 20580).

- e) Large Franchisor Exemption

The offer and sale of a franchise meeting the following requirements is exempt from Sections 5(1) and 10 of the Act:

- 1) Net worth. The franchisor and, when applicable, a parent corporation or other business entity owning at least 80 percent of the franchisor must meet one of the following net worth requirements according to the financial statements for the most recent fiscal year just ended:

- A) The franchisor has a net worth on a consolidated basis of not less than \$5,000,000, according to its audited financial statement; or
- B) The franchisor has a net worth of not less than \$1,000,000, and its parent has a net worth of not less than \$5,000,000, according to the audited financial statements of the franchisor and its parent, respectively; or
- C) The franchisor has a net worth not less than \$1,000,000, according to its unaudited financial statement, and the parent has a net worth on a consolidated basis of not less than \$5,000,000 according to its audited financial statement, and the parent absolutely and unconditionally guarantees to assume the duties and obligations of the franchisor under the franchise agreement should the franchisor become unable to perform its duties and obligations.

- 2) Experience. The franchisor or its parent corporation or other business entity owning at least 80 percent of the franchisor or the franchisor's predecessor (as defined by UPOC Guidelines), or any combination thereof, has, throughout the five year period

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immediately preceding the offer and sale of the franchise, at least 75 franchisees conducting business in its franchise system. Up to three years of the required experience can be fulfilled by demonstrating that the franchisor has conducted business that is substantially the same as the subject of the franchise.

- 3) Disclosure. The franchisor agrees to timely provide a Federal Trade Commission prospectus or UPOC offering circular to each prospective franchisee.

- 4) Loss of Exemption. This exemption shall immediately terminate if:

- A) Franchisor's net worth requirement is no longer met; or
- B) Franchisor has fewer than 25 active franchisees; or
- C) The franchisor was dependent upon another corporation or business entity to qualify for this exemption and such qualifying support has been withdrawn or is otherwise no longer available.

- 5) Required Documentation. Franchisor must submit the following documents to the Administrator to secure this exemption:

- A) A cover letter stating: how the net worth requirement has been met; specific information demonstrating that the experience requirement has been met; that the franchisor agrees to timely provide a UPOC or FTC disclosure document to each prospective franchisee; that the Illinois Franchise Disclosure Act applies to all Illinois franchise transactions; and that this exemption will immediately terminate for the reasons stated above.

- B) Franchisor's current UPOC or FTC disclosure document;

- C) A Uniform Consent to Service of process and the appropriate acknowledgment (Section 200, Appendix A, Illustrations D and E or F);

- D) A Certification Page (Appendix A, Illustration G) verifying that the documents submitted are true and correct.

- 6) The franchisor must renew its exemption annually.

(Source: Amended at 23 Ill. Reg. 21561-1 effective SEP 7 1999)

Section 200.301 Statements of Profitability

Every advertisement, considered in its totality, should be free from ambiguity and in whatever form presented, will be considered in its entirety as it would be read and understood by those to whom it is directed. No advertising in connection with the offer or sale of franchises shall contain the statement that the purchase of a franchise is a safe investment, is free from risk of loss or failure, or assures earnings or profit. The text of the advertisement may employ words such as "success", "profits", or "profit potential" so long as

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such terms are reasonably qualified.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.304 Dollar Statements on Sales or Income

Any advertisement which suggests a range or specific level of sales, income, gross or net profits, or other types of earnings claims must be consistent with the guidelines contained in Item 19 of the UFOC Uniform Franchise Offering Circular (See Section 200. Appendix A, Illustration 13.) Such earnings claims must be consistent with information contained in the registered disclosure statement.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.305 Filing Requirements (Repealed)

a) All advertising and promotional materials, including transcripts of radio, television and other audio-visual advertising, shall be filed with the Administrator at least five (5) days prior to the first publication, distribution or use in Illinois, as required by Section 30 of the Act. This requirement does not apply to advertisements in a newspaper or other publication of general regular and paid circulation which has had more than two thirds of its circulation outside this state during the past 12 months or to radio or television programs originating outside Illinois which are received in Illinois.

b) If the advertisement is not in compliance with this Subpart or the Act, the Administrator will notify the franchisor of any objections within five (5) days of receipt of the advertisement. Failure of the Administrator to respond within five (5) days shall not constitute approval of the contents of the advertisement, but shall preclude the Administrator from objecting on grounds of the five-day filing requirement in Section 30 of the Act.

(Source: Repealed at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.306 Internet Franchise Offers

Any communication made through the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system, of an offer to sell a franchise ("Internet Offer") is exempt from the registration provisions of the Illinois Franchise Disclosure Act if the franchisor limits

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contact with prospective Illinois franchisees to keep a prospect list and notifying such prospects that, until the franchisor registers the franchise in Illinois, no further discussion about the franchise opportunity can take place.

(Source: Added at 23 Ill. Reg. 11561, effective SEP -7 1999)

SUBPART D: HEARINGS

Section 200.402 Hearing Officer

"Hearing Officer" means an independent person designated by the Administrator to preside at the hearing. Such person must meet the following standards and qualifications:

- be of high integrity and good personal reputation and impartial;
- be unbiased, impartial and without any material conflict of interest;
- be a member in good standing of the Bar of Illinois;
- be familiar with the rules of evidence applied in civil cases in the circuit courts of Illinois and with the Act and the Rules promulgated thereunder; and
- not be a regular employee of the Illinois Attorney General.

Hearing Officer will be compensated as a Special Assistant Attorney General.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.407 Rules of Evidence in Hearings

- Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.
- Subject to the evidentiary requirements of subsection (a) of this Section, a party may conduct cross-examinations required for a full and fair disclosure of the facts.
- Notice may be taken of matters of which the Circuit Courts of this State may take judicial notice. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda

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or data, and they shall be afforded an opportunity to contest the material so noticed.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.408 Record of Proceedings

- a) At each hearing, a licensed court reporter may be called by the Administrator, or a sound recording may be made, at its expense, shall be present at each hearing to create and shall take a permanent and complete record of the proceedings.
- b) Upon request, and at the party's his own expense, any party may have a copy of the record.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.409 Record of Hearing

The record of hearing shall include:

- Offers of proof, objections, and rulings thereon;
- All pleadings (including all pre-hearing and post-hearing notices and responses thereto, admissions, stipulations of facts, motions and rulings thereon);
- A statement of matters officially noted;
- Evidence received including testimony;
- All memoranda or data submitted to the Hearing Officer;
- Any opinion, report, or recommendation of the Hearing Officer to the Administrator or the Administrator's his representative;
- The findings of fact and law and final order entered by the Administrator.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

Section 200.411 Final Administrative Decision

- a) A final administrative decision shall be issued by the Administrator in writing within one (1) month of receipt of the Hearing Officer's recommendation. The Hearing Officer's recommendation, rulings and findings of fact and law are to be taken into account but are not binding on the Administrator. However the final administrative decision must be based exclusively on evidence in the record. The Administrator may refuse to accept the factual recommendations of the Hearing Officer only when all the evidence, viewed most favorably to

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the party for whom the Hearing Officer held, so overwhelmingly favors the other party, that no contrary holding based on that evidence could withstand Administrative Review under the Administrative Review Act because the findings of fact of the Hearing Officer are against the manifest weight of the evidence. A copy of the final administrative decision shall be sent by certified or registered mail to each party or each party's his representatives.

b) The final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

c) The final order of the Administrator shall constitute a final administrative decision within the provisions of the Administrative Review Act (735 ILCS 5/Art. III).

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,

ESCROW, GUARANTY, SURETY BOND

Section 200.500 Assurance of Financial Ability to Fulfill Obligations

An application will be denied or a registration suspended if the franchisor's financial condition affects or would affect the ability of the franchisor to fulfill its obligations as mentioned in Section 22(a)(8) of the Act unless the franchisor assures that it will be able to meet its obligations to the franchisee as described below:

- If, after examination of the financial statements of the franchisor and the duties and obligations of the franchisor contained in the franchise or other agreement to furnish goods and/or services to assist its franchisees in establishing and opening their business, the Administrator determines that adequate financial resources are available to the franchisor for the performance of said obligations or that the franchisor will depend primarily on the initial franchise fees paid by franchisees as such financial resources (the franchisor has no other apparent source of income or assets), the Administrator will require the franchisor at the franchisor's option to assure financial capability by one of the following means: an escrow of funds, guaranty of performance, the posting of a surety bond, the issuance of a Certificate of Deposit, or the deferral of the initial franchise fees until the franchisor has met its obligations to the franchisee and the franchisee has commenced doing business. However if the franchisor's most recent balance sheet disclosed negative stockholder's equity, then the Administrator will require the franchisor to either post a surety bond, or to escrow funds, or to

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provide-a-guarantee-of-performance-at-his-option:

- b) When determining whether adequate financial resources are available, the Administrator shall give consideration to the applicant's recent financial statements. The following criteria shall be considered in making the determination: the auditor's opinion letter or review report, notes to the financial statements, the current ratio, the quick ratio, the amount of working capital, the proportion of tangible and intangible assets, the amount and maturities of debts, the debt/equity ratio, the amount of equity, the earnings history, the proportion of receivables compared to other assets, and the quality of receivables (e.g., financial statements reflect receivables that will not be collected, including bad debts, a debt discharged in bankruptcy, or the failure to allow for aged receivables).
- c) Registration under the provisions of this Section shall be limited to the sale of the number of franchises authorized by the Administrator. The Administrator will make that decision based upon the franchisor's demonstrated willingness to fulfill its obligations to a specific number of franchisees.

(Source: Amended at 23 Ill. Reg. 11561 = effective SEP-7-1999)

Section 200.502 Escrow of Funds

When a franchisor chooses the escrow of franchise fees to comply with financial assurance requirements, the Administrator may impose as a condition to registration an escrow of the initial franchise fee paid by a franchisee who is a resident of Illinois to the franchisor or an affiliate of the franchisor until the initial obligations of the franchisor to assist the franchisee to establish and open his business are fulfilled. (See Appendix--C, Illustration A-7). When an escrow is imposed in connection with the registration of a franchise offering, the escrow account shall comply with the following requirements:

- a) Checks shall be made payable to the escrowee by the franchisee; the account shall be established in a federally insured bank, and the funds shall be kept and maintained in an account separate and apart from the franchisor's business and personal accounts;
- c) The escrowed funds ~~all proceeds so deposited shall remain the property of the franchisee and shall not be subject to any liens or charges by the escrowee or judgments, garnishments, or creditor's claims against the franchisor as hereinafter provided.~~ This escrow is for the benefit of each franchisee in the amount paid by each franchisee;
- d) At the request of the Administrator, statements indicating the status of the escrow shall be furnished by the bank or trust company to the Administrator; and
- e) An escrow agreement in the form set forth in Appendix C, Illustration

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A hereto, shall be entered into between the bank and the franchisor, which shall state that its purpose is to protect the franchisee and shall authorize the Administrator to inspect the records of the bank as escrowee relating thereto, and shall state that, upon order of the Administrator or a court of competent jurisdiction, the escrowee shall release and pay over the funds, or a portion thereof, to the franchisor or franchisee; and-

- f) The escrow shall remain in effect as to the respective franchisee/franchisor relationships until the initial obligations of the franchisor to assist the franchisee to establish and open the franchisee's business are fulfilled.

(Source: Amended at 23 Ill. Reg. 11561 = effective SEP-7-1999)

Section 200.503 Release of Escrowed Funds

- a) A franchisor shall petition for release of escrowed funds by use of the form attached as Appendix C, Illustration B. Upon receipt of such petition, the Administrator will send notice of it to the franchisee advising the franchisee ~~him~~ that any objection that the franchisee ~~he~~ may have to the petition must be filed in writing and received by the Administrator within 30 days after of the date the notice is sent. The Administrator shall issue a "no exception notice" authorizing the escrowee to release to the franchisor the escrowed funds applicable to a specified franchisee upon a showing that the franchisor has fulfilled its initial obligations under the franchise or other agreements to establish such franchise and that the franchisee has commenced doing business pursuant to the franchise agreement. The "no exception notice" shall state that the Administrator has no objection to the release of the funds to the franchisor.

- b) A franchisee shall petition for release by use of the form attached as Appendix C, Illustration C. Upon receipt of such petition, the Administrator will send notice of it to the franchisor advising it that any objection it may have to the petition must be filed in writing and received by the Administrator within 30 days ~~after of~~ the date the notice is sent. The Administrator shall issue a "no exception notice" authorizing the escrowee to release to the franchisee the escrowed funds applicable to each ~~his~~ franchisee upon a showing that the franchisor has failed to fulfill its initial obligations under the franchise or other agreement to the franchisee and that the franchisee has not commenced doing business. The "no exception notice" shall state that the Administrator has no objection to the release of funds to the franchisee.
- c) An order of the Administrator releasing funds held in escrow to the franchisor or franchisee shall not be considered a finding of any fact

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and shall not constitute evidence of any such finding of fact in any judicial or arbitration proceeding.

- d) If the Administrator receives a timely objection to the release of the escrowed funds, the Administrator he shall not order the funds released from escrow until such time as the objection is resolved by either settlement, court order, or decision of arbitrator.

(source: Amended at 23 Ill. Reg. 11561 effective SEP 7 1999)

Section 200-507 Release of Certificate of Deposit

- a) A franchisor petition for release of the Certificate of Deposit by use of the form attached as Appendix F, Illustration A. Upon receipt of such petition, the Administrator will send notice of it to the franchisee advising the franchisee him that any objection that the franchisee he may have to the petition must be filed in writing and received by the Administrator within 30 days after of the date the notice is sent. The Administrator shall issue a "no exception notice" authorizing the bank to release to the franchisor the Certificate of Deposit applicable to a specified franchisee upon a showing that the franchisor has fulfilled its initial obligations under the franchise or other agreements to establish such franchise and that the franchise has commenced doing business pursuant to the franchise agreement. The "no exception notice" shall state that the Administrator has no objection to the release of the Certificate of Deposit to the franchisor.

- b) A franchisee shall petition for release of the Certificate of Deposit by use of the form attached as Appendix F, Illustration B. Upon receipt of such petition, the Administrator will send notice of it to the franchisor advising it that any objection it may have to the petition must be filed in writing and received by the Administrator within 30 days after of the date the of notice is sent. The Administrator shall issue a "no exception notice" authorizing the bank to release to a franchisee the Certificate of Deposit applicable to the his franchise agreement upon a showing that the franchisor has failed to fulfill its initial obligations under the franchise or other agreements to the franchisee and the franchisee has not commenced doing business. The "no exception notice" shall state that the Administrator has no objection to the release of the Certificate of Deposit to the franchisee.

- c) An order of the Administrator releasing the Certificate of Deposit to the franchisor or franchisee shall not be considered a finding of fact and shall not constitute evidence of any such finding of fact in any judicial or arbitration proceeding.
- d) If the Administrator receives a timely objection to the release of the

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Certificate of Deposit, the Administrator he shall not order the Certificate of Deposit released until such time as the objection is resolved by either settlement, court order, or decision of arbitrator.

(source: Amended at 23 Ill. Reg. 11561 effective SEP 7 1999)

SUBPART F: REGISTRATION REQUIREMENTS
Section 200-600 Original Registration

- a) Documents to File
The following materials must be submitted to the Administrator to obtain registration:

- 1) Uniform Franchise Registration Application Page, Appendix A, Illustration A;
- 2) Supplemental Information Page, Appendix A, Illustration B;
- 3) Sales Agent Salesperson Disclosure Form for each sales agent Salesperson employed by or affiliated with the applicant, Appendix A, Illustration C;
- 4) Uniform Consent to Service of Process naming the Illinois Attorney General as agent to receive service, with corporate, individual or partnership acknowledgment, Appendix A, Illustration D, E, F, G and H;
- 5) Certification Page, Appendix A, Illustration G;
- 6) Auditor's consent letter granting consent to use each audited report in the registration, Appendix A, Illustration H;

- 7) Advertising or promotional materials
- 78) Uniform Franchise Offering Circular
Disclose--Statement in duplicate current within 120 days and in compliance with UPOC Guidelines. Updated information pertaining to Items 20 or 21 may be submitted as an exhibit without changing the information already in these items (See Section 200-107); and

- 89) A \$500-00 nonrefundable fee payable to the State of Illinois.
- b) Signing of Notification Application: The Notification Application shall be signed by an authorized officer of the applicant; however, it may be signed by another person holding a power of attorney for such purposes from the applicant. If signed on behalf of the applicant pursuant to such power of attorney, the application shall include as an additional exhibit a copy of the power of attorney or a copy of the corporate resolution authorizing the attorney to act.

- c) Phase In Of Audit Requirement: Franchisors who have never had audited financial statements and are filing their first application with the Administrator may request a phase in of the audit requirement. All unaudited statements must be prepared by an independent CPA in accordance with GAAP. Initial registration will be granted using the

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unaudited statements which cover the time periods set forth in UPOC item 21. The franchisor must notify its CPA to count the opening inventory at the beginning of the franchisor's fiscal year which commences after the registration has been filed. At the end of that fiscal year, the balance sheet must be audited. The remainder of the financial statements for that fiscal year may be unaudited but financial statements prepared in accordance with GAAP. Financial statements for the following fiscal year must be fully audited.

- d) The franchisor submitting original registration documents shall be provided either a courtesy notice that registration has been completed or an order of denial indicating the deficiencies that must be cured.

(Source: Amended at 23 Ill. Reg. 11561, effective SEP-7-1989)

Section 200.602 Notification of Registration (Repealed)

The applicant of an originally renewal or amended registration will be notified by letter of registration after the examination process has been completed.

(Source: Repealed at 23 Ill. Reg. 11561, effective SEP-7-1989)

Section 200.603 Annual Report

- a) To maintain the effectiveness of registration, a franchisor must file the Annual Report required by Section 10 of the Act no later than one business day 90 days prior to the anniversary date of the its registration date. The filing of the Annual Report shall include:

- 1) A non-refundable filing fee of \$100.00;
- 2) Copies of franchise signed acknowledgments of receipt of the Disclosure Statement listing exhibits that are required by the UPOC--(North American Securities Administrators Association, September 2, 1975, as amended--and effective April 25, 1993 without further additions or amendments)--for all franchisees subject to Section 10 of the Act sold since the most recent Annual Report was filed or date of registration--and copies of corresponding assigned and dated contract pages--from all such sales;

- 2) Two (2) complete unbound copies of the franchisor's Uniform Franchise Offering Circular disclosure statement updated as of 120 days after of the franchisor's anniversary date. The phase in of the Audit Requirement continues. If the required audited financial documents are not current within 120 days after of the anniversary date, interim financials in a format consistent with GAAP, including prepared in accordance with GAAP consisting of a

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balance sheet and corresponding income statement for the period between the close of the franchisor's most recent fiscal year and the date of the balance sheet must be submitted. All material changes in the disclosure statement must be clearly marked underlined in red on one (1) copy of the UPOC disclosure statement. The updated UPOC disclosure statement shall replace the UPOC disclosure statement previously submitted to the Administrator;

- 34) Sales Agent Salesperson Disclosure Form for each salesperson employed by the applicant, Appendix A, Illustration C;
- 45) Certification page, Appendix A, Illustration G;
- 56) Auditor's consent letter granting consent to use each audited report in the registration, Appendix A, Illustration H;
- 74) A cover letter from the correspondent listing all documents submitted in the Annual Report and summarizing the material changes in the disclosure statement;
- b) If the franchise is registered pursuant to conditions required under Section 15 of the Act or Section 200.500 and the franchisor has sold that number of franchises previously authorized by the Administrator, additional sales must be authorized by the Administrator in accordance with the terms of Section 15 of the Act or Section 200.500;
- c) All other documents listed in Section 200.600 need not be submitted with the Annual Report if the information contained in them is current. If the information contained in those documents is no longer current, updated documents must be filed with the Annual Report; and
- d) If the franchisor fails to timely submit an Annual Report, the Administrator shall enter an order pursuant to Section 22 of the Act declaring that the franchisor's registration is terminated effective as of the anniversary date of its registration date. Annual Reports received after the Annual Report filing date are invalid. A franchisor whose registration is terminated due to its failure to file an Annual Report must file as an original registrant and comply with Section 200.603(a)(1)-(3) if it desires to offer or sell franchises in this State. A terminated franchisor may complete the state-of-a franchise up to the effective termination/anniversary date without re-registering.
- e) The Administrator may consider a franchisor's incomplete filing of its Annual Report as partial compliance with Section 200.603(a) and provide the franchisor up to 14 additional days to complete its Annual Report if:
 - 1) The franchisor has filed the required fee and an Annual Report that is in substantial compliance with Section 200.603 no later than one business day prior to the anniversary date of its registration;
 - 2) A letter of explanation is provided as to why material portions of the Annual Report have not been provided and verifying that

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the missing information will be provided within a maximum period of 14 days after the Annual Report due date; and

3) The franchisor agrees not to make offers or conclude the sale of franchises during the period when the Annual Report is incomplete; and

f) The franchisor shall be provided a courtesy notice that its Annual Report has been received.

(Source: Amended at 23 Ill. Reg. 11561.5 effective SEP-7-1999)

Section 200.604 Amendment Application

a) Within 90 days after the occurrence of any material change to the UPOC the ~~the~~ following materials must be submitted to the Administrator ~~to amend the disclosure statement:~~

- 1) Two complete copies of the UPOC pages ~~Disclosure-Statement~~ containing the changes. One copy of the changed pages must is-to have all changes clearly marked ~~undefined-in-fee~~;
- 2) An Application page, Appendix A, Illustration A;
- 3) A Certification page, Appendix A, Illustration G;
- 4) A nonrefundable filing fee:

- A) \$25.00 for an immaterial amendment;
- B) \$100.00 for a material amendment;² and

- 5) A ~~cover-letter-detailing-the-amendment~~;
- b) A UPOC ~~disclosure document~~ may cannot be amended by addendum.
- c) The franchisor shall be provided a courtesy notice that its amendment(s) has been received.

(Source: Amended at 23 Ill. Reg. 11561.3 effective SEP-7-1999)

Section 200.605 Final Circular Submission

A registrant may be required to submit one extra, complete unbound copy of the Disclosure Statement, including all revisions and exhibits, ~~within one-month of--the--date--of--registration--~~ ~~---this--requirement--applies--to--original--registrations--and--amendments---~~

(Source: Amended at 23 Ill. Reg. 11561.3, effective SEP-7-1999)

Section 200.610 Denial of Initial Registration

- a) A franchisor, whose initial registration has been denied without a full review of the UPOC by the Administrator because incomplete

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financial statements not in compliance with UPOC Guidelines were submitted, shall have 90 days to correct such deficiencies. The Administrator shall have 21 days to review the corrected financial data submitted and the previously submitted circular.

- b) If the Administrator finds material deficiencies upon a complete review of the initial registration materials, or a review subsequent to the franchisor's submission of the required financial data, pursuant to subsection (a), the franchisor shall be notified that the franchisor has 90 days within which to correct such deficiencies. The Administrator shall have 21 days to review the curative information. If the franchisor cures the deficiencies noticed by the Administrator within the times specified in this Part, the Administrator shall rescind the order of denial and register the franchise. A franchisor that fails to comply with statutory requirements and UPOC Guidelines during the above described 90 day periods must reapply by submitting a new registration fee and documents pursuant to the Act and Section 200.600.

(Source: Added at 23 Ill. Reg. 11561.3 effective SEP-7-1999)

SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION

Section 200.800 Failure to Diligently Prosecute Application (Repealed)

When an application for registration of a franchise or franchise broker has been on file with the Administrator for a period of at least six months and has not become effective or registered, the Administrator shall proceed in the following manner to determine whether the application has been abandoned by the applicant:

- a) A notice will be sent to the applicant and the correspondent by registered or certified mail return receipt requested, addressed to the most recent addresses for the applicant and the correspondent as contained in the application. The notice will inform the applicant and correspondent that the application is out of date and must either be updated and revised to comply with the Administrator's deficiency letter previously sent under Section 19 of the Act or withdrawn within 90 days after the date of the notice.
- b) If the applicant or correspondent fails to respond to such notice by filing a revision or withdrawing the application or does not furnish a satisfactory explanation as to why it has not done so within 30 days, the Administrator will enter an order declaring the application abandoned and will deny such application.
- c) The application form will be plainly marked in the following manner: "Declared Abandoned" and "denied" by order dated ~~-----~~.

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d) ~~The filing fee is not-refundable~~(Source: ~~Repealed~~ at 23 Ill. Reg. 11561 effective September 1, 1999)

SUBPART 1: REGISTRATION OF FRANCHISE BROKERS

Section 200.900 Documents to File

Each franchise broker shall file with the Administrator the documents listed below in duplicate and pay an annual \$100.00 registration fee.

- Franchise Broker application page, Appendix B, Illustration A;
- Certification page, Appendix A, Illustration G;
- Salesperson Disclosure Form for each person who will be offering or selling franchises, Appendix A, Illustration C;
- Corporate, Partnership or Individual Acknowledgment, Appendix A, Illustrations E and F;
- Uniform Consent to Service of Process naming the Illinois Attorney General as agent to receive service, Appendix A, Illustration D;
- Broker Authorization Form, Appendix B, Illustration B. This form must be filed with the Administrator for each franchisor the broker purports to represent, before making such representations to any prospective franchisee. The franchisor must amend its UFOC to disclose each broker relationship before the respective broker(s) represents the Franchisor, except under the "isolated transaction" exemption;

- A broker who is authorized to accept cash, checks or other payments from prospective franchisees on behalf of a franchisor shall comply with the provisions of this subsection (g) requiring an unaudited balance sheet and income statement externally prepared by an independent CPA in accordance with GAAP current within 120 days certifying the net worth of the franchise broker to be not less than \$50,000.

1) ~~The net worth of the franchise broker who will accept cash or checks payable to such broker from a prospective franchisee must not be less than \$50,000.00.~~

2) ~~The net worth of a franchise broker who will not accept cash or checks payable to such broker from a prospective franchisee must not be less than \$5,000.00.~~

13) In lieu of an unaudited balance sheet and income statement, the broker may post a surety bond in the amount of \$50,000.00 or \$50,000.00 depending on the facts indicated in 191(f) and 191(f) above [Appendix B, Illustration C]. OR

24) In lieu of the franchise broker's unaudited balance sheet and income statement of a person, corporation or partnership having a

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net worth of \$5,000 or \$50,000 depending on the facts indicated in 191(f) and 191(f) above, a Guaranty of Performance from such other entity (Appendix B, Illustration D A), a Corporate Resolution (Appendix D, Illustration B), a Secretary's Certificate (Appendix D, Illustration C), a Consent to Service of Process from the guarantor (Appendix A, Illustration D), and an Acknowledgment from the guarantor (Appendix A, Illustration ~~Illustrations E or F~~); and

h) \$100.00 registration fee.

(Source: ~~September 1, 1999~~ at 23 Ill. Reg. 11561 effective September 1, 1999)

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Section 200. APPENDIX A Franchise Registration Forms

Section 200. ILLUSTRATION A Uniform Franchise Registration Notification Application Page

File No.

(Insert prior file number of
previous filings--of Applicant, if
any)

FEE: Enclosed to be enclosed by
Applicant at time of initial filing
application is initially filed

Date of
Filing Application: _____

Notification of Filing Application For (Check only one category):

____ Registration of an offer or sale of franchises
____ Annual Report
____ Amendment

1. Name of Franchisor

Name under which the Franchisor is doing or intends to do business.

2. Franchisor's principal business address.

Name and address of Franchisor's agent in the State of Illinois authorized to receive process.

Illinois Attorney General, 500 South Second Street, Springfield,
Illinois 62706

3. Name, address and telephone number of subfranchisors, if any, for this State.

4. Name, address and telephone number of person to whom communications regarding this application should be directed.

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(Source: Adopted at 23 Ill. Reg. 11561, effective
July 1, 1999)

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Section 200. ILLUSTRATION C Sales Agent Salesperson Disclosure Form

1. List the persons who will offer or sell franchises in this State. For each person state:

- A. Name;
B. Business address and telephone number;
C. Home address and telephone number;
D. Present employer;
E. Present title;
F. Social security number;
G. Birthdate, and

- H. Employment during the past 5 years. For each such employment state the name of the employer, position held and beginning and ending dates.

2. State whether any person identified in 1. above:

- A. Has any administrative, civil or criminal action pending alleging a violation of franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or any comparable allegations?

YES _____ NO _____

- B. Has during the 10 year period immediately before the Offering Circular date:

- (1) been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable in a civil action by final judgment if the felony or civil action involved a violation of franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable violation of law?

YES _____ NO _____

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- (2) entered into or been named in any consent judgment, decree, order or assurance under federal or state franchise, securities antitrust, monopoly, trade practice, or trade regulation law?

YES _____ NO _____

- (3) been subject to any order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934, 15 U.S.C. 78a) suspending or expelling the person from membership in the association or exchange.

YES _____ NO _____

- C. With respect to each question above answered "YES" state:

- (1) the name of each person or entity involved;

- (2) the court, agency, association or exchange involved;

- (3) a summary of the allegations;

- (4) if applicable, the date of the conviction, judgment, decree, order or assurance; and

- (5) the penalty imposed, damages assessed and nature thereof, terms and conditions of the judgment, decree, order or assurance.

(Source: Illinois at 23 Ill. Reg. 11561, effective _____)

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Section 200. ILLUSTRATION D Uniform Consent to Service of Process

of the State of _____, (name) _____, (a corporation organized under the laws of the State of _____), (a partnership) (an individual) _____ and the irrevocably appoints the _____ (regulatory authority) _____ and the successors in office, its attorney in the State of _____ for service of notice, process or pleading in any action or proceeding against it arising out of or in connection with the sale of franchises, or a violation of the franchise laws of _____ (state); and consents that an action or proceeding against it may be commenced in a court of competent jurisdiction and proper venue within _____ (state) _____ by service of process upon this officer with the same effect as if the undersigned was organized or created under the laws of _____ (state) _____ and had lawfully been served with process in _____ (state) _____.

A copy of any notice, process or pleading served pursuant to this consent shall be mailed to:

(name and address)

Dated: _____, 19 _____

By: _____

Title _____

(SEAL)

By: _____

Title _____

(Notarial Seal)

Notary Public

My Commission Expires: _____

(Source: Amended at 23 Ill. Reg. 11561, effective SEP 1 / 1999)

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Section 200. ILLUSTRATION E Corporate Acknowledgment

STATE OF _____)

COUNTY OF _____)SS

On this _____ day of _____, 19 _____, before me _____ the undersigned officer, _____ personally appeared _____ and _____ President and _____ Secretary, respectively, of the above named corporation, and that they, as such officers, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by themselves as such officer.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notarial Seal)

Notary Public

My commission expires: _____

(Source: Amended, 23 Ill. Reg. 11561, effective SEP 1 / 1999)

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Section 200. ILLUSTRATION F Individual or Partnership Acknowledgment

STATE OF _____)
COUNTY OF _____) SS

On this _____ day of _____, 19____, before me _____ the undersigned officer, personally appeared _____ to me personally known and known to be the same person(s) whose name(s) is _____ (are) signed to the foregoing instrument, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notarial Seal)

Notary Public

My commission expires: _____

(Source: Amended at 23 Ill. Reg. 11561, effective
SEP 7 1999)

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Section 200. ILLUSTRATION G Certification Page

I certify under penalty of law that I have read this notification application and the exhibits attached hereto and incorporated herein by reference, and know the contents thereof and that the statements therein are true and correct.

Executed at _____, 19____.

(Signature(s) of Franchisor, Subfranchisor
Or Broker)

(SEAL)

By _____

Title _____

STATE OF _____)

COUNTY OF _____) SS

Personally appeared before me this _____ day of, 19____ the above-named _____ (and) _____ to me known to be the person(s) who executed the foregoing notification application (as applicant) and (each) being first duly sworn, stated upon oath that said notification application, and all exhibits submitted herewith, are true and correct.

(Notarial Seal)

Notary

(Source: Amended at 23 Ill. Reg. 11561, effective
SEP 7 1999)

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Section 200. ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

THE UNIFORM FRANCHISE OFFERING CIRCULAR
GUIDELINES
GENERAL INSTRUCTIONS

90. Introduction: The Uniform Franchise Offering Circular (UFOC) Guidelines consist of the Requirements, Instructions and Sample Answers (Appendix A, Illustration L). The UFOC Guidelines were prepared and adopted by the North American Securities Administrators Association ("NASAA") and its Predecessor, the Midwest Securities Commission Association June 10, 1993. The members of NASAA cannot create statutes since that is the constitutional province of state legislators, but NASAA intends for the UFOC Guidelines to facilitate compliance with disclosure requirements under state franchise investment laws. Where possible, NASAA has developed uniform disclosure requirements, but differences in state laws bearing on the franchise relationship may necessitate changes. In addition, state administrators will continue to review the application for deficient disclosure and additional disclosure necessitated by special problems or risks in the proposed offering.

100. Follow these General Instructions and the Requirement and Instruction for each item in franchise registration applications and disclosure in the Uniform Franchise Offering Circular.

110. Original Registration Application - Documents to File:

- (a) Uniform Franchise Registration Application Page (also known as "Facing Page") (Appendix A, Illustration A);
 - (b) Supplemental Information Page(s) (Appendix A, Illustration B);
 - (c) Certification Page (Appendix A, Illustration G);
 - (d) Uniform Consent to Service of Process (Appendix A, Illustration D);
 - (e) Sales Agent Disclosure Form (Appendix A, Illustration C);
 - (f) If the applicant is a corporation or partnership, an authorizing resolution if the application is verified by a person other than applicant's officer or general partner (Appendix A, Illustrations E, F, W and W);
 - (g) Uniform Franchise Offering Circular (Appendix A, Illustration L);
 - (h) Application Fee (Section 40 of the Act);
 - (i) Auditor's consent (on a photocopy of the consent) to the use of the latest audited financial statements in the offering circular (Appendix A, Illustration H).
120. Renewal Application: When state law requires renewal, mark "renewal" on the application page. Submit all documents required for an initial application with additions to the previously filed documents underlined. Changes must be

clearly marked so that the change is noticed easily. File a renewal application before the prior registration has expired (see Section 10 of Act). If the prior registration has expired, mark "Registration on an Offer or Sale of Franchises" on the facing page and pay the fee charged for initial registrations. Redlining and bracketing changes from the last filing will speed a re-registration. Do not mark the amendment boxes on the application page on the first renewal filing even if documents are revised. In Illinois you can make as many changes in a renewal filing as are necessary without paying an amendment fee.

130. "Disclose" means to state all material facts in an accurate and unambiguous manner. Disclose clearly, concisely and in narrative form that is understandable by a person unfamiliar with the franchise business. For clear and concise disclosure avoid legal antiques and repetitive phrases (2). When possible, use active, not passive voice(s). Limit the length and complexity of disclosure through careful organization of information in the disclosure. Avoid technical language and unnecessary detail. Make the format and chronological order consistent within each item.

NOTES:

- 1 Avoid these legal antiques. Preferred substitutes are in parentheses: aforesaid; arising from (from); as between; as an inducement for; as part of the consideration; as set forth in (in); as the case may be, at a later point in time; binding upon and inure; commence (begin); condition precedent (before); condition subsequent (after); consist of (are); engaged in the business of offering (offer); for and in consideration of the grant of the franchise; for a period of (for); foregoing; forthwith; from time to time; hereby; herein; hereinafter; hereto; heretofore; if necessary; in the event (if); including but not limited to (including); in any manner whatsoever; including without limitation (including); in conjunction with; connection with; in no event of (if); in whole or in part; it will be specifically understood that; manner in which; not later than (within); by; not less than (at least); notwithstanding; offers to an individual, corporation or partnership (offer); on behalf of (for); precedent (before); prescribed (required); (if, unless); purporting to; relating to (under); subsequent (after); such (this); so as to (to); so long as (while); thereafter; therefrom; thereof; thereunder; without limiting the foregoing; whatsoever; with respect to.
- 2 Avoid repetitive phrases. Preferred substitutes are in

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parentheses; agrees, acknowledges and recognizes) any and all; are and remain; based upon, related to, or growing out of (because); certified as true and correct (certified); consultation, assistance and guidance (guidance); each and every; equipment, furniture, supplies, and inventory set forth on the equipment list attached as Exhibit (items on Exhibit); necessary and appropriate; sample, test and review (test); twenty-three (23) (write as 23).

3 The preferred phrase in the parentheses: As the franchisor prescribes (you must); being offered (offer); consists of (is); engaged in the business of offering (offer); giving rise to, if it becomes necessary for (if); inure to the benefit of (benefits); if granted the right to (can); is given an opportunity to (can); is required to (must); shall be no less than (a minimum of); shall continue in effect (continues); with the exception of (except).

160. Since prospective franchisees must have sufficient disclosure to understand economic commitments and to develop a business plan, Items 5, 6, 7 and 8 must disclose the minimum and maximum franchisee cost. The franchisor should provide reasonably available information to allow franchisees to forecast future charges listed in these Items and to be paid to person who are independent of the franchisor. Future payments to the franchisor should be specific as is required by individual Items.

170. The disclosure for each UFOC Item should be separately titled and in the required order. Do not repeat the UFOC question in the offering circular. Respond to each question fully. If the disclosure is not applicable, respond in the negative but if an answer is required "if applicable," respond only if the requested information applies. Do not qualify a response with a reference to another document unless permitted by the instructions to that Item.

180. For each item in the UFOC, type the Requirement's Item title and number. Sub-items may be designated by descriptive headings, but do not use sub-item letters and numbers.

190. Separate documents (for example, a confidential operations manual) must not make representations or impose terms that contradict or are materially different from the disclosure in the offering circular.

200. Use 8-1/2 by 11 inch paper for the entire application.

210. When the applicant is a master franchisor seeking to sell subfranchises, references in these requirements and instructions to "franchisees" include the subfranchisor unless the language context requires a different meaning.

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220. The offer of subfranchises is an offer separate from the offer of franchises and usually requires a separate registration or exemption. A single application may register the sale of single unit and multi-unit franchises if the offering circular is not confusing.

230. When the applicant is a subfranchisor, disclose the same information concerning the subfranchisor that is required about the franchisor, to the extent applicable.

240. In offerings by a subfranchisor, "franchisor" means both the franchisor and subfranchisor.

250. When state requirements conflict with these Guidelines, the state requirements control. The State Administrator may modify or waive these Guidelines or may require additional documentation or information.

260. Grossly deficient applications may be rejected summarily by the Administrator as incomplete for filing. It is not the function of an Administrator to prepare, in effect, an applicant's application. The additional examiner time reviewing the grossly deficient product delays the processing of diligently prepared and pursued applications.

270. The Guidelines that continue after these Instructions use the following format:

- (a) The title of the Item follows the Item number. It is capitalized and centered on the page.
- (b) The "Item" is a restatement of the Uniform Franchise Offering Circular (UFOC) Item Requirement. It is capitalized and follows the title of the Item.
- (c) The "Instruction" appears beneath the Item. It explains portions of the Item requirements.
- (d) The "Sample Answer" at the end of each Item provides sample disclosures. Double horizontal lines divide the Sample Answer from the Instructions.

COVER PAGE: The State cover page of the offering circular must state:

1. The title in boldface type: **FRANCHISE OFFERING CIRCULAR**
2. The franchisor's name, type of business organization, principal business address and telephone number.
3. A sample of the primary business trademark, logotype, trade name, or commercial label or symbol under which the franchisee will conduct its business. (Place in upper left-hand corner of the cover page.)

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4. A brief description of the franchised business.
5. The total amounts in Items 5 and 7 of the offering circular: Franchisee's Initial Franchise Fee or Other Payment and Franchisee's Initial Investment.
6. The following statements:
Information comparing franchisors is available. Call the State administrators listed in Exhibit _____ or your public library for sources of information.
Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in the offering is untrue, contact the Federal Trade Commission and Illinois Attorney General (State or Provincial authority).
7. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.)

Cover Page Instructions:

- i. Present information in the required order. Except for risk factors or when instructed by the examiner, do not capitalize or underline.
- ii. The estimated cash investment should agree with the Item 7 total. This total should represent the franchisee's entire initial investment minus only exclusions allowed by Item 7. Do not state what the total includes.
- iii. Limit the cover page disclosure to one page unless risk factors require additional space. Disclosure on the cover page should be brief. Limit the description of the business to the product or service offered by the franchisor. Unless required by a State regulator, do not disclose financing arrangements or the franchisee's right to use the trademark. Exclude non-required information unless necessary as a risk factor or required by a State regulator.
- iv. If applicable, disclose the following risk factors using the following language on the cover:
 - a. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE (TO SUE) (TO ARBITRATE WITH) _____ (franchisor) ONLY IN _____ (state) _____ OUT OF STATE (ARBITRATION) (LITIGATION) MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST

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- MORE (TO SUE) (TO ARBITRATE WITH) _____ (franchisor) IN _____ (state) _____ THAN IN YOUR HOME STATE.
- b. THE FRANCHISE AGREEMENT STATES THAT _____ (state) _____ LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
- c. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.
- v. In addition to the above language, disclose other risk factors required by a State regulator.
- vi. Use capital letters for risk factor disclosure.
- vii. In multistate offerings in which the franchisor uses a single offering circular, refer to an exhibit to the offering circular for a list of State or Provincial authority.

Sample Cover Page

(Logo) Franchise Offering Circular

Belmont Mufflers, Inc.
A Minnesota Corporation
First Street
Jackson, Minnesota 55000
(612) 266-3430

The franchisee will repair and install motor vehicle exhaust systems.

The initial franchise fee is \$10,000. The estimated initial investment required ranges from \$132,700 to \$160,200. This sum does not include rent for the business location.

Risk Factors:

THE FRANCHISE AGREEMENT REQUIRES THAT ALL DISAGREEMENTS BE SETTLED BY ARBITRATION IN MINNESOTA. OUT OF STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH US IN MINNESOTA THAN IN YOUR HOME STATE.

Information about comparisons of franchisors is available. Call the state administrators listed in Exhibit _____ or your public

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Library for sources of information.

Registration of this franchise with the state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in this offering circular is untrue, contact the Federal Trade Commission and Illinois Attorney General.

Effective date: _____

TABLE OF CONTENTS: INCLUDE A TABLE OF CONTENTS BASED ON THE REQUIREMENTS OF THIS OFFERING CIRCULAR.

Table of Contents Instructions:

Refer to UFOC Items and state the page where each UFOC Item disclosure begins. List exhibits by letter. Use the following format:

SAMPLE TABLE OF CONTENTS:

ITEM	TABLE OF CONTENTS	PAGE
1	The Franchisor, its Predecessors and Affiliates	
2	Business Experience	
3	Litigation	
4	Bankruptcy	
5	Initial Franchise Fee	
6	Other Fees	
7	Initial Investment	
8	Restrictions on Sources of Products and Services	
9	Franchisee's Obligations	
10	Financing	
11	Franchisor's Obligations	
12	Territory	
13	Trademarks	
14	Patents, Copyrights and Proprietary Information	
15	Obligation to Participate in the Actual Operation of the Franchise Business	
16	Restrictions on What the Franchise May Sell	
17	Renewal, Termination, Transfer and Dispute Resolution	

18	Public Figures	
19	Earnings Claims	
20	List of Outlets	
21	Financial Statements	
22	Contracts	
23	Receipt	
	Exhibits	
A.	Franchise Agreement	
B.	Equipment Lease	
C.	Lease for Premises	
D.	Loan Agreement	

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Item 1

THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

Item 1 Instructions:

i. Use the word "we," initials or one or two words to refer to the franchisor. Use different initials or a different one or two words to refer to other persons contracting with the franchisees under the franchise agreement. Except in the 23 item titles, use these initials or the word(s) to describe these persons or entities throughout the offering circular.

ii. Define the franchisee as "you" and use this description throughout the offering circular. If the franchisee could be a corporation, partnership or other entity, disclose whether "you" includes the franchisee's owners.

iii. "Predecessor" in Item 1 means a person from whom the franchisor acquired directly or indirectly the major portion of the franchisor's assets.

iv. The disclosure regarding predecessors need only cover the 10 year period immediately before the close of the franchisor's most recent fiscal year.

v. Affiliate in Item 1 means a person (other than a natural person) controlled by, controlling or under common control with the franchisor, which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor.

DISCLOSE IN SUMMARY FORM:

A. THE NAME OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES.

B. THE NAME UNDER WHICH THE FRANCHISOR DOES OR INTENDS TO DO BUSINESS.

Item 1B Instruction:

If the franchisor does business under a name different from the name disclosed in Item 1A, state that other name. If not, state that the franchisor does not do business under another name.

C. THE PRINCIPAL BUSINESS ADDRESS OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES, AND THE FRANCHISOR'S AGENT FOR SERVICE OF PROCESS.

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Item 1C Instructions:

i. Principal business address means "home office" in the United States, not in the state for which the offering circular was prepared. If appropriate, also disclose the location of an international "home office." The business address cannot be a post office box.

ii. In a multi-state offering in which the agent for service of process is required, the franchisor may use an exhibit or the acknowledgment of receipt to disclose this agent.

D. THE BUSINESS FORM OF THE FRANCHISOR

Item 1D Instruction:

Disclose the state of incorporation or business organization and the type of business organization.

E. THE FRANCHISOR'S BUSINESS AND THE FRANCHISES TO BE OFFERED IN THIS STATE.

Item 1E Instructions:

Disclose the following:

i. That the franchisor sells or grants franchises;

ii. Whether the franchisor operates businesses of the type being franchised;

iii. The franchisor's other business activities;

iv. The business to be conducted by the franchisees;

v. The general market for the product or service to be offered by the franchisees. (For example, is the market developed or developing? Will the goods be sold primarily to a certain group? Are sales seasonal?);

vi. In general terms any regulations specific to the industry in which the franchise business operates. It is not necessary to include laws or regulations that apply to businesses generally;

vii. A general description of the competition.

F. THE PRIOR BUSINESS EXPERIENCE OF THE FRANCHISOR. ITS PREDECESSORS AND AFFILIATES INCLUDE:

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- (1) THE LENGTH OF TIME THE FRANCHISOR HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.
- (2) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.
- (3) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.
- (4) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.
- (5) WHETHER THE FRANCHISOR HAS OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:
 - (A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;
 - (B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND
 - (C) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED EACH OTHER FRANCHISE.
- (6) WHETHER EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:
 - (A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;
 - (B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND
 - (C) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED EACH OTHER FRANCHISE.

Item 1f Instruction:

Limit disclosure about predecessors to the time before the franchisor acquired the predecessor's assets. Thus, under the 10 year limitation, if a franchisor acquired the assets of a predecessor 8 years ago, the disclosure about the predecessor should cover only the 2 year period before the acquisition.

Sample Answer 1

To simplify the language in this offering circular "Belmont" means Belmont

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Mufflers Inc., the franchisor. "You" means the person who buys the franchise. Belmont is a Minnesota corporation that was incorporated on September 3, 1963. Belmont does business as Belmont Muffler Shops. Our principal business address is 111 First Street, Jackson, Minnesota 55555.

Belmont's agent for service of process is disclosed in Exhibit _____.

Belmont currently operates 12 Belmont Muffler Shops and sells pipe bending machines and mufflers to various muffler shops.

Belmont franchises the right to sell and install mufflers for the public. You must honor our guarantee to replace mufflers or exhaust pipes that wear out if the vehicle ownership has not changed. Belmont's franchisees often operate their muffler shop franchise with their service stations or tire center. Your competitors include department store service departments, service stations and other national chains of muffler shops. Exhibit _____ is attached to this offering circular and contains a summary of the special regulations for muffler installation in your state.

During the past 5 years Belmont has operated 7 muffler shops that are similar to the franchised shops being offered. All these shops are located in urban areas, have approximately xxxxx square feet of floor space and are located on busy streets. An additional 3 muffler shops were opened in 1990. From 1968 to 1973, Belmont offered franchises for "Repair-All Transmission Shops." "Repair-All" franchises repaired and replaced motor vehicle transmissions under a marketing plan similar to the franchise in this offering circular. Belmont sold 40 of these franchises primarily in the states of Minnesota, Michigan, Wisconsin and Illinois. In 1973, Belmont sold this transmission repair company to CTF Inc.

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Item 2

BUSINESS EXPERIENCE

LIST BY NAME AND POSITION THE DIRECTORS, TRUSTEES AND/OR GENERAL PARTNERS, THE PRINCIPAL OFFICERS AND OTHER EXECUTIVES OR SUBFRANCHISORS WHO WILL HAVE MANAGEMENT RESPONSIBILITY RELATING TO THE FRANCHISES OFFERED BY THIS OFFERING CIRCULAR. LIST ALL FRANCHISE BROKERS. STATE EACH PERSON'S PRINCIPAL OCCUPATIONS AND EMPLOYERS DURING THE PAST FIVE YEARS.

Item 2 Instructions:

- i. Principal officers include the chief executive and chief operating officer, the president, financial, franchise marketing, training and franchise operations officers.
- ii. First disclose the position and the name of the person holding it. Underline this information; then skip one line.
- iii. Disclose the beginning date and departure date for each job held in the five year period whether or not this date is within the past five years. Disclose the location of the job.
- iv. Do not disclose home addresses, home telephones, social security numbers or birth dates in this item.
- v. Disclose the required information concerning the franchise broker's directors, principal officers and executives with management responsibility to market or service the franchisees.
- vi. In a multi-state offering in which the franchisor uses a single offering circular and franchise brokers and executives with direct management responsibility to the franchisees differs from state to state, use an exhibit to refer to these personnel.

Sample Answer 2

President: Jane J. Doe
From June 1978, until April, 1986, Ms. Doe was Vice President of Atlas Inc., a Houston, Texas based manufacturer of automobile wheels. In April, 1986, she joined Belmont as a Director and Vice President. She was promoted to President

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in June 1987.

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Item 3

LITIGATION

DISCLOSE WHETHER THE FRANCHISOR, ITS PREDECESSOR, A PERSON IDENTIFIED IN ITEM 2 OR AN AFFILIATE OFFERING FRANCHISES UNDER THE FRANCHISOR'S PRINCIPAL TRADEMARK:

A. HAS AN ADMINISTRATIVE, CRIMINAL OR MATERIAL CIVIL ACTION PENDING AGAINST THAT PERSON ALLEGING A VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IN ADDITION, INCLUDE ACTIONS OTHER THAN ORDINARY ROUTINE LITIGATION INCIDENTAL TO THE BUSINESS WHICH ARE SIGNIFICANT IN THE CONTEXT OF THE NUMBER OF FRANCHISEES AND THE SIZE, NATURE OR FINANCIAL CONDITION OF THE FRANCHISE SYSTEM OR ITS BUSINESS OPERATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM, NATURE, AND CURRENT STATUS OF THE PENDING ACTION. FRANCHISOR MAY INCLUDE A SUMMARY OPINION OF COUNSEL CONCERNING THE ACTION IF A CONSENT TO USE OF THE SUMMARY OPINION IS INCLUDED AS PART OF THIS OFFERING CIRCULAR.

B. HAS DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR BEEN CONVICTED OF A FELONY OR PLEADED NOLLO CONTENDERE TO A FELONY CHARGE; OR BEEN HELD LIABLE IN A CIVIL ACTION BY FINAL JUDGMENT OR BEEN THE SUBJECT OF A MATERIAL ACTION INVOLVING VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM AND DATE OF CONVICTION OR DATE JUDGMENT WAS ENTERED, PENALTY OR DAMAGES ASSESSED AND/OR TERMS OF SETTLEMENTS.

C. IS SUBJECT TO A CURRENTLY EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OR DECREE RELATING TO THE FRANCHISE OR UNDER A FEDERAL, STATE OR CANADIAN FRANCHISE, SECURITIES, ANTITRUST, TRADE REGULATION OR TRADE PRACTICE LAW RESULTING FROM A CONCLUDED OR PENDING ACTION OR PROCEEDING BROUGHT BY A PUBLIC AGENCY. IF SO, DISCLOSE THE NAME OF THE PERSON, THE PUBLIC AGENCY AND COURT, A SUMMARY OF THE ALLEGATIONS OR FACTS FOUND BY THE AGENCY OR COURT AND THE DATE, NATURE, TERMS AND CONDITIONS OF THE ORDER OR DECREE.

Item 3 Instructions:

i. Definitions:

- a. For purposes of these instructions to Item 3, "franchisor" includes the franchisor, its predecessors, persons identified in Item 2 and affiliates offering franchises under the franchisor's principal trademarks.
- b. Action: Action includes complaints, cross claims, counterclaims, and third party complaints in a judicial proceeding, and their

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equivalents in an administrative action or arbitration proceeding. The franchisor may disclose its counterclaims. Omit actions that were dismissed by final judgment without liability of or entry of an adverse order against the franchisor.

c. Included in the definition of material is an action or aggregate of actions if a reasonable prospective franchisee would consider it important in making a decision about the franchised business.

d. In this item, settlement of an action does not diminish its materiality if the franchisor agrees to pay material consideration or agrees to be bound by obligations which are materially adverse to its interests.

e. "Ordinary routine litigation" means actions which ordinarily result from the business and which do not depart from the normal kinds of actions in the business.

f. "Held liable" includes a finding by final judgment in a judicial, binding arbitration or administrative proceeding that the franchisor, as a result of claims or counterclaims, must pay money or other consideration, must reduce an indebtedness by the amount of an award, cannot enforce its rights, or must take action adverse to its interests.

g. "Currently effective": An injunctive or restrictive order or decree is "currently effective" unless it has been vacated or rescinded by a court or by the issuing public agency. An order that has expired by its own terms is not currently effective. "If the named party(s) have fully complied with an order (for example, through registration of its franchise offer), the order is not 'currently effective.'" A party has not fully complied with an order to act or to refrain from an act (for example, to comply with the franchise law or to refrain from violating the franchise law) until the order expires by its own terms.

ii. Civil Litigation or Injunctive or Restrictive Order:

- a. Use Sample Answer 3-1 for a negative response to Item 3 if the franchisor has never been named in litigation or if the only litigation naming the franchisor is outside the scope of Item 3.
- b. Disclose in the same order as the instructions below appear.
- c. Title each action and state its case number or citation in parentheses. Underline the title of the action.
- d. For each action state the action's initial filing date and the opposing party's name and relationship with the franchisor. Relationships include competitor, supplier, lessor, franchisee, former franchisee, or class of franchisees.
- e. Summarize the legal and factual nature of each claim in the action.

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- f. Summarize the relief sought or obtained. Summarize conclusions of law or fact.
g. State that other than these (list number of actions) no litigation is required to be disclosed in this offering circular.

iii. Criminal Convictions or Pleas:

- a. Disclose in the same order as the following instructions appear. Title each action and state its citation in parentheses. Underline the title of the action.
b. Name the person convicted or who pleaded.
c. State the crime or violation and the date of conviction.
d. Disclose the sentence or penalty imposed.
e. State that other than these (list the number of actions) actions, no litigation is required to be disclosed in this offering circular.

Sample Answer 3-1

No litigation is required to be disclosed in this offering circular.

Sample Answer 3-2

Doe v. Belmont Muffler Service, Inc. (cite) On March 1, 1985, our franchisee, Donald Doe, sought to enjoin us from terminating him for nonpayment of royalty fees. Doe alleged _____ On April 3, 1986, Doe withdrew the case when we repurchased his franchise for \$90,000 and agreed not to enforce non-compete clauses against him.

Indiana v. Belmont Muffler Service, Inc. (cite) On April 1, 1985, the Attorney General of Indiana sought to enjoin us from offering unregistered franchises and from using false income representations. The Attorney General alleged that the earnings claims were false because.... The court found that we had offered franchises, that the offers were not registered and that we had made offered alleged false representations in our earnings claims. The court enjoined us from repeating those acts.

Other than these 2 actions, no litigation is required to be disclosed in this offering circular.

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Item 4

BANKRUPTCY

STATE WHETHER THE FRANCHISOR, ITS AFFILIATE, ITS PREDECESSOR, OFFICERS OR GENERAL PARTNER DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR (A) FILED AS DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE; (B) OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE; OR (C) WAS A PRINCIPAL OFFICER OF A COMPANY OR A GENERAL PARTNER IN A PARTNERSHIP THAT EITHER FILED AS A DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE OR THAT OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE DURING OR WITHIN 1 YEAR AFTER THE OFFICER OR GENERAL PARTNER OF THE FRANCHISOR HELD THIS POSITION IN THE COMPANY OR PARTNERSHIP. IF SO, DISCLOSE THE NAME OF THE PERSON OR COMPANY THAT WAS THE DEBTOR UNDER THE BANKRUPTCY CODE, THE DATE OF THE ACTION AND THE MATERIAL FACTS.

Item 4 Instructions:

- i. First, name the party that filed (or had filed against it) the petition in bankruptcy and the party's relationship to the franchisor. If the debtor in a bankruptcy proceeding was or is affiliated with the franchisor, state the relationship. If the debtor in a bankruptcy proceeding is unaffiliated with the franchisor, state the name, address and principal business of the bankrupt company.
- ii. Disclose that the entity filed bankruptcy or reorganization under the bankruptcy law and the date of the original filing.
- iii. Identify the bankruptcy court, and the case name and number. Put this information in parentheses.
- iv. State the date on which the debtor obtained a discharge in bankruptcy (including discharges under Chapter 7 and confirmation of any plans of reorganization under Chapters 11 and 13 of the U.S. Bankruptcy Code).
- v. Disclose other material facts.
- vi. Cases, actions and other proceedings under the laws of foreign nations relating to bankruptcy proceedings should be included in answers, where responses are required, as if those cases, actions and proceedings took place under the U.S. Bankruptcy Code.
- vii. If information is disclosed in this Item, at the end of the disclosure add Sample Answer 4-1 with the qualification "other than these actions."

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viii. Use Sample Answer 4-1 if no person listed in Items 1 or 2 has been involved as a debtor in bankruptcy proceedings or any person listed in Items 1 or 2 has been involved as debtor in bankruptcy proceedings but the bankruptcy proceedings (under the U.S. Bankruptcy Code or its predecessor, the National Bankruptcy Act of 1988) were discharged more than 10 years ago. "Person" includes natural persons and legal entities listed in Items 1 and 2. Person does not include anyone acting solely as the franchisor's agent for service of process.

Sample Answer 4-1

No person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

Sample Answer 4-2

On March 2, 1984, Belmont filed a petition to reorganize under Chapter 11 of the U.S. Bankruptcy Code. We were allowed to continue to operate under bankruptcy court supervision. On October 2, 1985, the bankruptcy court approved our plan of reorganization and discharged the proceedings. (US Bankruptcy Court for the District of _____ Case B 84-301.)

Belmont's present president, Roger Rowe, was president of Acme Muffler Service, Inc., a Houston, Texas based manufacturer of exhaust systems, from July 1, 1978, through June 14, 1983. On June 6, 1983, an involuntary petition under the U.S. Bankruptcy Code was filed against Acme by its creditors. On July 14, 1983, the court entered an order of relief. Acme sold its assets and was dissolved.

Other than these 2 actions, no person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

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Item 5

INITIAL FRANCHISE FEE

DISCLOSE THE INITIAL FRANCHISE FEE AND STATE THE CONDITIONS WHEN THIS FEE IS REFUNDABLE.

Item 5 Instructions:

- i. "Initial fee" includes all fees and payments for services or goods received from the franchisor before the franchisee's business opens. "Initial fee" includes all fees and payments whether payable in lump sum or installments.
- ii. If the initial fee is not uniform, disclose the formula or the range of initial fees paid in the fiscal year before the application date and the factors that determined the amount.
- iii. Disclose installment payment terms in this Item or in Item 10.

Sample Answer 5-1

All franchisees pay a \$10,000 lump sum franchise fee when they sign the franchise agreement. Belmont will refund the entire amount if we do not approve your application within 45 days. Belmont will refund \$9,000 of this fee if you do not satisfactorily complete your 2-week training. There are no refunds under other circumstances.

Sample Answer 5-2

You must pay a franchise license fee of \$_____ per thousand licensed drivers who reside within your exclusive area when the franchise agreement is signed. The number of licensed drivers is determined by the latest abstract of the state agency which issues driver's licenses. The minimum fee is \$20,000. When you send your application, you must pay a non-refundable \$500 application fee. You must pay an additional \$10,000 when you receive your equipment. The balance of your fee is payable in 12 equal monthly installments of \$_____. The first installment payment is due 1 year after your shop opens. Belmont charges 10% annual interest on the unpaid balance. Interest compounds daily and accrues from the date that you receive your equipment. All buyers pay this uniform fee and receive the same financing terms on the fee. If your

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application is not accepted, Belmont retains the \$500 for investigative costs, but you are not liable for the \$19,500 remainder. Belmont does not give refunds under other circumstances.

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Item 6

OTHER FEES

DISCLOSE OTHER RECURRING OR ISOLATED FEES OR PAYMENTS THAT THE FRANCHISEE MUST PAY TO THE FRANCHISOR OR ITS AFFILIATES OR THAT THE FRANCHISOR OR ITS AFFILIATES IMPOSE OR COLLECT IN WHOLE OR IN PART ON BEHALF OF A THIRD PARTY. INCLUDE THE FORMULA USED TO COMPUTE THESE OTHER FEES AND PAYMENTS. IF ANY FEE IS REFUNDABLE, STATE THE CONDITIONS WHEN EACH FEE OR PAYMENT IS REFUNDABLE.

Item 6 Instructions:

- i. First disclose fees in tabular form. Use footnotes or a "remarks" column to elaborate on the information in the table or to disclose caveats. If elaborations are lengthy, use footnotes instead of a remarks column.
- ii. Disclose the amount of each fee. A dollar amount or a percentage of gross sales is acceptable if the term gross sales is defined. If dollar amounts may increase, disclose the formula which determines the increase or the maximum amount of the increase.
- iii. Disclose the due date for recurring payments.
- iv. If all fees are payable to only the franchisor, disclose this in a footnote.
- v. If all fees are imposed and collected by the franchisor, disclose this in a footnote.
- vi. If all fees are non-refundable, state this in a footnote.
- vii. Disclose the voting power of franchisor owned outlets on any fees imposed by cooperatives. If franchisor outlets have controlling voting power, disclose a range for the fee. Disclose this information in a footnote or a "remarks" column.
- viii. The franchisor need not repeat information contained in Items 8 & 9, but the table should direct the franchisees to those items.
- ix. Examples of fees are royalty, lease negotiation, construction, remodeling, additional training, advertising, group advertising, additional assistance, audit, accounting/inventory, and transfer and renewal fee.

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Sample Answer 6-1

Name of fee	Amount	Due Date	Remarks
Royalty(1)	4% of total gross sales	Payable monthly on the 10th day of the next month	Gross sales includes all revenue from the franchise location. Gross sales does not include sales tax or use tax.
Advertising(1)	2% of total gross sales	Same as Royalty fee	
Cooperative Advertising(1)	Maximum - 2% of gross sales	Established by franchisees	Franchisees may form an advertising cooperative and establish local advertising fees. Company owned stores have no vote in these cooperatives.
Additional Training(1)	\$1,000 per person	2 weeks prior to beginning of training	Belmont trains 2 persons free - See Item 11
Additional Assistance(1)	\$500 per day	30 days after billing	Belmont provides opening assistance free - See item 11
Transfer(1)	\$1,000	Prior to consummation of transfer	Payable when you sell your franchise. No charge if franchise transferred to a corporation which you control

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Audit(1)	Cost of audit plus 10% interest on underpayment(2)	30 days after billing	Payable only if audit shows an understatement of at least 2% of gross sales for any month
Renewal Fee(1)	\$1,000	30 days before renewal	

Notes:

(1) All fees are imposed by and are payable to Belmont. All fees are non-refundable.

(2) Interest begins from the date of the underpayment.

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Item 7

INITIAL INVESTMENT

DISCLOSE THE FOLLOWING EXPENDITURES STATING TO WHOM THE PAYMENTS ARE MADE, WHEN PAYMENTS ARE DUE, WHETHER EACH PAYMENT IS REFUNDABLE, THE CONDITIONS WHEN EACH PAYMENT IS REFUNDABLE, AND, IF PART OF THE FRANCHISEE'S INITIAL INVESTMENT IN THE FRANCHISE MAY BE FINANCED, AN ESTIMATE OF THE LOAN REPAYMENTS, INCLUDING INTEREST:

- A. REAL PROPERTY, WHETHER PURCHASED OR LEASED. IF NEITHER ESTIMABLE NOR DESCRIBABLE BY A LOW-HIGH RANGE, DESCRIBE REQUIREMENTS, SUCH AS PROPERTY TYPE, LOCATION AND BUILDING SIZE.
- B. EQUIPMENT, FIXTURES, OTHER FIXED ASSETS, CONSTRUCTION, REMODELING, LEASEHOLD IMPROVEMENTS AND DECORATING COSTS, WHETHER PURCHASED OR LEASED.
- C. INVENTORY REQUIRED TO BEGIN OPERATION.
- D. SECURITY DEPOSITS, UTILITY DEPOSITS, BUSINESS LICENSES, OTHER PREPAID EXPENSES.
- E. ADDITIONAL FUNDS REQUIRED BY THE FRANCHISEE BEFORE OPERATIONS BEGIN AND DURING THE INITIAL PHASE OF THE FRANCHISE.
- F. OTHER PAYMENTS THAT THE FRANCHISEE MUST MAKE TO BEGIN OPERATIONS.

Item 7 Instructions:

- i. Begin disclosure by listing expenditures in tabular form. List preopening expenses first. Use footnotes to comment on expected expenditures.
- ii. Disclose payments required by the franchise agreement and all costs necessary to begin operation of the franchise and operate the franchise during the initial phase of the business. A reasonable time for the initial phase of the business is at least 3 months or a reasonable period for the industry. Include an entry titled "additional funds" and disclose the length of the initial phase in the entry.
- iii. If a specific expenditure amount is not ascertainable, use a low-high range based on the franchisor's current experience. If real property costs cannot be estimated in a low-high range, disclose the approximate size of the property and building involved. Describe the

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probable location of the building (for example, strip shopping center, mall, downtown, rural or highway).

- iv. The franchisor may include additional expenditure tables to show expenditure variations caused by differences in site location, premise size, etc. Describe in general terms the factors, basis and experience that the franchisor considered or relied upon in formulating the amount required for additional funds.

- v. If the franchisor or an affiliate finances part of the initial investment, state the expenditures that it will finance. State the required down payment, annual percentage rate of interest, rate factors, and the estimated loan repayments. Make the discussion brief, and refer to item 10.

- vi. Total the initial investment. This total should be the same as the total investment on the offering circular cover.

Sample Answer 7

YOUR ESTIMATED INITIAL INVESTMENT

	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
INITIAL FRANCHISE FEE	\$20,000 (Note 1)	Lump Sum	At Signing of Franchise Agreement	Belmont, Inc.
TRAVEL AND LIVING EXPENSES WHILE TRAINING	\$2,500 to \$5,000	As Incurred	During Training	Airlines, Hotels & Restaurants
REAL ESTATE AND IMPROVEMENTS				
EQUIPMENT	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Belmont or vendors

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SIGNS	\$2,200	Lump Sum	Prior to Opening	Abbey Sign Company
MISCELLANEOUS OPENING COSTS	\$8,000	As Incurred	As Incurred	Suppliers, Utilities, etc.
OPENING INVENTORY	\$8,000	Lump Sum	Prior to Opening	Belmont or vendors
ADVERTISING FEB-3 MONTHS	\$ 500		Monthly	Belmont
ADDITIONAL FUNDS-3 MONTHS	\$50,000 to \$75,000 (Note 6)	As Incurred	As Incurred	Employees, Suppliers, Utilities
TOTAL	\$132,700 to \$160,200 (Note 7)	(Does not include real estate costs)		

Notes:

- (1) See Item 5 for the conditions when this fee is partly refundable. Belmont does not finance any fee.
- (2) If you do not own adequate shop space, you must lease the land and building for the Belmont Muffler Shop. Typical locations are light industrial and commercial areas. The typical Belmont Muffler Shop has 5,000 - 8,000 square feet. Former three or four bay gasoline service stations have been converted with relative ease into Belmont Muffler Shops. Rent is estimated to be between \$12,000 - \$20,000 per year depending on factors such as size, condition and location of the leased premises.
- (3) This payment is fully refundable before equipment installation. After installation, Belmont deducts \$3,000 installation costs from your refund.
- (4) Includes security deposits, utility costs, incorporation fee.
- (5) This payment is fully refundable before Belmont delivers your inventory. After delivery Belmont deducts a 10% restocking fee from your refund.

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- (6) This estimates your start up expenses. These expenses include payroll costs. These figures are estimates and Belmont cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how much you follow Belmont's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our product; the prevailing wage rate; competition; and the sales level reached during the initial period.
- (7) Belmont relied on its 30 years of experience in the muffler business to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.
- (8) Belmont does not offer direct or indirect financing to franchisees for any items.

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Item 8

RESTRICTIONS ON SOURCES
OF PRODUCTS AND SERVICES

DISCLOSE FRANCHISEE OBLIGATIONS TO PURCHASE OR LEASE FROM THE FRANCHISOR, ITS DESIGNEE OR FROM SUPPLIERS APPROVED BY THE FRANCHISOR OR UNDER THE FRANCHISOR'S SPECIFICATIONS. FOR EACH OBLIGATION DISCLOSE:

- A. THE GOODS, SERVICES, SUPPLIES, FIXTURES, EQUIPMENT, INVENTORY, COMPUTER HARDWARE AND SOFTWARE OR REAL ESTATE RELATING TO ESTABLISHING OR OPERATING THE FRANCHISED BUSINESS.
- B. THE MANNER IN WHICH THE FRANCHISOR ISSUES AND MODIFIES SPECIFICATIONS OR GRANTS AND REVOKES APPROVAL TO SUPPLIERS.
- C. WHETHER, AND FOR WHAT CATEGORIES OF GOODS AND SERVICES, THE FRANCHISOR OR ITS AFFILIATES ARE APPROVED SUPPLIERS OR THE ONLY APPROVED SUPPLIERS.
- D. WHETHER, AND, IF SO, THE PRECISE BASIS BY WHICH, THE FRANCHISOR OR ITS AFFILIATES WILL OR MAY DERIVE REVENUE OR OTHER MATERIAL CONSIDERATION AS A RESULT OF REQUIRED PURCHASES OR LEASES.
- E. THE ESTIMATED PROPORTION OF THESE REQUIRED PURCHASES AND LEASES TO ALL PURCHASES AND LEASES BY THE FRANCHISEE OF GOODS AND SERVICES IN ESTABLISHING AND OPERATING THE FRANCHISED BUSINESS.
- F. THE EXISTENCE OF PURCHASING OR DISTRIBUTION COOPERATIVES.

Item 8 Instructions:

- i. An obligation includes those imposed by written agreement or by the franchisor's practice. The franchisor may include the reason for the requirement.
- ii. Do not include goods or services provided as part of the franchise and without a separate charge (for example, a fee for initial training when the cost is included in the franchise fee). These fees should be described in Item 5. Do not include fees disclosed in response to Item 6.
- iii. For "precise basis," disclose the franchisor's total revenues and the franchisor's revenues from all required purchases and leases of products and services. Also, disclose the percentage of the franchisor's total revenues represented by the franchisor's revenues

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from required purchases or leases. If the franchisor's affiliates also sell or lease products or services to franchisees, disclose affiliate revenues from those sales or leases. These amounts should be taken from the franchisor's statement of operations (or profit and loss statement) from the most recent annual audited financial statement attached to the offering circular. If the franchisor's annual audited financial statement is not required to be attached to the offering circular or if the franchisor's affiliate sells or leases required products or services to franchisees, disclose the sources of information used in computing revenues.

- iv. State how the franchisor formulates and modifies specifications and standards imposed on franchisees.
- v. Disclose whether specifications and standards are issued to franchisees, subfranchisors, or approved suppliers.
- vi. Describe how suppliers are evaluated, approved or disapproved. Disclose whether the franchisor's criteria for supplier approval are available to franchisees. State the fees and procedure to secure approval and how approvals are revoked. State the time period when the franchisee will receive notification of approval or disapproval.
- vii. If the designated supplier will make payments to the franchisor because of transactions with franchisees, disclose the basis for the payment. Specify a percentage or a flat amount. Purchases of similar goods or services by the franchisor at a lower price than that available to franchisees is a payment.
- viii. Disclose whether the franchisor negotiates purchase arrangements with suppliers (including price terms) for the benefit of franchisees.
- ix. Disclose whether the franchisor provides material benefits (for example, renewal or granting additional franchises) to a franchisee based on a franchisee's use of designated or approved sources.
- x. Use Sample Answer 8-1 if the response to Item 8 is negative.

Sample Answer 8-1

Belmont has no required specifications, designated suppliers, or approved

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suppliers for goods, services or real estate relating to your franchise business. Belmont will not derive revenue from your purchases or leases.

Sample Answer 8-2

You must purchase your pipe bending machine, hoist, cutting torch and suppliers under specifications in the operations manual. These specifications include standards for delivery, performance, design and appearance. You may purchase this equipment from Belmont. In the year ending December 31, 1992, Belmont's revenues from the sale of this equipment to franchisees was \$500,000, or 5% of Belmont's total revenues of \$10,000,000. The cost of equipment purchased in accordance with specifications represents 10% of your total purchases in connection with establishment of your store.

Belmont's affiliate, Muffler Supply Co., is an approved supplier of mufflers to franchisees. In the year ending December 31, 1992, the affiliate's revenues from the sale of mufflers to franchisees was \$2,000,000. The purchase of mufflers from approved sources will represent 15 to 20% of your overall purchases in operating the store. Belmont has approved other suppliers of mufflers and exhaust pipe. If you would like to purchase these items from another supplier, you may request our "Supplier Approval Criteria and Request Form." Based on the information and samples you supply to us and your payment of a \$500 fee, we will test the items supplied and review the proposed supplier's financial records, business reputation, delivery performance, credit rating and other information. Our review typically is completed in 30 days.

One of the approved suppliers of mufflers and exhaust pipes, Scottie's Pipes, Inc., pays Belmont a rebate of 1% of all franchisee purchases, which is deposited in the Belmont Advertising Fund. Another approved supplier, Michael's Clean-Air, Inc., pays Belmont 2% of all franchisee purchases of catalytic converters. This amount is used in Belmont's training center for classes in catalytic converter repair and replacement.

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Item 9

FRANCHISEE'S OBLIGATIONS

DISCLOSE THE PRINCIPAL OBLIGATIONS OF THE FRANCHISEE UNDER THE FRANCHISE AND OTHER AGREEMENTS AFTER THE SIGNING OF THESE AGREEMENTS.

Item 9 Instructions:

- i. Disclose obligations in tabular form. Refer to the section of the agreement that contains the obligation and any item of the offering circular that further describes the obligation.
- ii. The table should contain a response to each category listed below. If the response to any category is that no obligation is imposed, the table should state that. Do not change the names of the categories. Fit all obligations within the listed categories. If other material obligations fall outside the scope of all of the prescribed categories, add additional categories as needed. The categories of franchisee obligations are:
 - a. Site selection and acquisition/lease
 - b. Pre-opening purchases/leases
 - c. Site development and other pre-opening requirements
 - d. Initial and ongoing training
 - e. Opening
 - f. Fees
 - g. Compliance with standards and policies/Operating Manual
 - h. Trademarks and proprietary information
 - i. Restrictions on products/services offered
 - j. Warranty and customer service requirements
 - k. Territorial development and sales quotas
 - l. Ongoing product/service purchases
 - m. Maintenance, appearance and remodeling requirements
 - n. Insurance
 - o. Advertising
 - p. Indemnification
 - q. Owner's participation/management/staffing
 - r. Records and reports
 - s. Inspections and audits
 - t. Transfer
 - u. Renewal
 - v. Post-termination obligations
 - w. Non-competition covenants
 - x. Dispute resolution
 - y. Other (describe)

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iii. Before the table, state the following:

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Sample Answer 9

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATION IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Section In Agreement	Item in Offering Circular	Manual	Sections 7 and 11 of Franchise Agreement	Items 13 and 14
a. Site Selection and acquisition/lease	Section 2A of Franchise Agreement	Items 6 and 11	h. Trademarks and proprietary information		
b. Pre-opening purchases/leases	Section 3D of Franchise Agreement	Item 8	i. Restrictions on products/services offered	Section 12 of Franchise Agreement	Item 16
c. Site development and other pre-opening requirements	Sections 3A and 3B of Franchise Agreement	Items 6, 7, and 11	j. Warranty and customer service requirements	Section 8B of Franchise Agreement	Item 11
d. Initial and ongoing training	Section 5 of Franchise Agreement	Item 11	k. Territorial development and sales quotas	None	
e. Opening	Section 4 of Franchise Agreement	Item 11	l. Ongoing product/service purchases	Section 9 of Franchise Agreement	Item 8
f. Fees	Section 6 of Franchise Agreement	Items 5 and 6	m. Maintenance, appearance and remodeling requirements	Sections 8C and 10 of Franchise Agreement	Item 11
g. Compliance with standards and policies/Operating	Section 8A of Franchise Agreement	Item 11	n. Insurance	Section 13A of Franchise Agreement	Items 6 and 8
			o. Advertising	Section 15 of Franchise Agreement	Items 6 and 11
			p. Indemnification	Section 13B of Franchise Agreement	Item 6
			q. Owner's participation/management/staffing	Sections 4, 5 and 14 of Franchise Agreement	Items 11 and 15

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- r. Records/ reports
Section 17A
of Franchise
Agreement
Item 6
- s. Inspections/ audits
Section 17B
of Franchise
Agreement
Items 6 and 11
- t. Transfer
Section 18
of Franchise
Agreement
Item 17
- u. Renewal
Section 20
of Franchise
Agreement
Item 17
- v. Post-termination obligations
Section 22
of Franchise
Agreement
Item 17
- w. Non-competition covenants
Sections 11,
18 and 22C
of Franchise
Agreement
Item 17
- x. Dispute resolution
Section 24
of Franchise
Agreement
Item 17

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- Item 10
FINANCING

DISCLOSE THE TERMS AND CONDITIONS OF EACH FINANCING ARRANGEMENT THAT THE FRANCHISOR, ITS AGENT OR AFFILIATE OFFERS DIRECTLY OR INDIRECTLY TO THE FRANCHISEE.

Item 10 Instructions:

- i. "Financing" includes leases and installment contracts.
- ii. Payments due within 90 days on open account financing need not be disclosed under this Item.
- iii. A written arrangement between a franchisor or its affiliate and a lender for the lender to offer financing to the franchisee or an arrangement in which a franchisor or its affiliate receives a benefit from a lender for franchisee financing is an "indirect offer of financing" and must be disclosed under this Item. The franchisor's guarantee of a note, lease or obligation of the franchisee is an "indirect offer of financing" and must be disclosed under this Item.
- iv. If financing of the initial fee is disclosed in the Item 7 disclosure, a cross reference to Item 7 is sufficient if all the disclosure which Item 10 requires is provided in Item 7.
- v. If an affiliate offers financing, identify the affiliate and its relationship to the franchisor.
- vi. The franchisor may summarize the terms of each financing arrangement in tabular form, using footnotes to entries in the chart to provide additional information required by these instructions that does not fit in the chart.
- vii. If a financing arrangement is for the establishment of the franchised business, disclose what the financing covers, including:

- a. Initial franchise fee;
- b. Site acquisition;
- c. Construction or remodeling;
- d. Equipment or fixtures; and
- e. Opening inventory or supplies.

viii. If the franchisor generally offers financing for the operation of the franchised business, disclose what the financing arrangement

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covers, including:

- a. Inventory or supplies;
- b. Replacement equipment or fixtures; and
- c. Other continuing expenses.

ix. Disclose the terms of each financing arrangement, including:

- a. The identity of the lender(s) providing the financing and its relationship to the franchisee (for example, affiliate);
- b. The amount of financing offered or, if the amount depends on an actual cost that may vary, the percentage of the cost that will be financed;
- c. The annual percentage rate of interest ("APR") charged, computed as provided by Sections 106-107 of the Consumer Protection Credit Act, 15 USC §§9101-9107. If the APR may differ depending on when the financing is issued, disclose the APR on a specified recent date;
- d. The number of payments or the period of repayment;
- e. Nature of security interest required by the lender;
- f. Whether a person other than the franchisee (for example spouse, shareholder of the franchisee) must personally guarantee the debt;
- g. Whether the debt can be prepaid and the nature of any prepayment penalty;
- h. The franchisee's potential liabilities upon default, including any accelerated obligation to pay the entire amount due, court costs and attorney's fees for collection, and termination of the franchise, or other cross default clauses whether directly, as a result of non-payment, or indirectly, as a result of loss of necessary facilities; and
- i. Other material financing terms.

x. Include specimen copies of the financing documents as an exhibit to Item 22. Cite the section and name of the document containing the financing terms. Put this information in parentheses at the end of the description of the term.

xi. Use Sample Answer 10-1 if the franchisor does not offer financing.

A. A WAIVER OF DEFENSES OR SIMILAR PROVISIONS IN A DOCUMENT.

Item 10A Instructions:

- i. Disclose the terms of waivers of legal rights by the franchisee under the terms of the financing arrangement (for example confession of

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judgment).

- ii. Describe provisions of the loan agreement that bar the franchisee from asserting a defense against the lender, the lender's assignee or the franchisor.

- iii. If the loan agreement does not contain the provisions in i. or ii., disclose that fact.

- iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.

B. THE FRANCHISOR'S PRACTICE OR ITS INTENT TO SELL, ASSIGN, OR DISCOUNT TO A THIRD PARTY ALL OR PART OF THE FINANCING ARRANGEMENT.

Item 10B Instructions:

- i. Practice includes past or present practice and future intent to sell or assign franchisee financing arrangements.

- ii. Disclose the assignment terms including whether the franchisor will remain primarily obligated to provide the financed goods or services.

- iii. If the franchisor may sell or assign its rights under the financing agreement, disclose that the franchise may lose all its defenses against the lender as a result of the sale or assignment.

- iv. Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.

- v. If no disclosure is required by Instruction 10B, disclose that fact.

C. PAYMENTS TO THE FRANCHISOR OR AN AFFILIATE(S) FOR THE PLACEMENT OF FINANCING WITH THE LENDER.

Item 10C Instructions:

- i. Describe the payments.

- ii. If no disclosure is required by Instruction 10C i. for a financing arrangement, disclose that fact.

- iii. Identify the source of the payment and the relationship of the source to the franchisor or its affiliates.

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Notes:

- (1) If you meet Belmont's credit standards, Belmont will finance the \$10,000 initial franchise fee over a 10-year period at an APR of 18%, using the standard form note in Exhibit A. The only security Belmont requires is a personal guarantee of the note by you and your spouse or by all the shareholders of your corporation. (Loan Agreement Section ____). The note can be prepaid without penalty at any time during its 10-year term. (Loan Agreement Section ____). If you do not pay on time, Belmont can call the loan and demand immediate payment of the full outstanding balance and obtain court costs and attorney's fees if a collection action is necessary. (Loan Agreement Section ____). Belmont also has the right to terminate your franchise if you do not make your payments on time more than three times during the note term. (Loan Agreement Section ____). You waive your rights to notice of a collection action and to assert any defenses to collection against Belmont. (Loan Agreement Section ____). Belmont discounts these notes to a third party who may be immune under the law to any defenses to payment you may have against Belmont. (Loan Agreement Section ____).
- (2) In most cases Belmont will sublease the franchised premises to you but will guarantee your lease with a third party if you have acceptable credit and that is the only way to obtain an exceptional location. (Lease Section ____). The precise terms of Belmont's standard lease in Exhibit B will vary depending on the size and location of the premises, but the chart reflects a typical range of payments for Belmont's standard 6-day franchise outlet, including payment of one month's rent as a security deposit. (Lease Section ____). The only other security Belmont requires is a personal guarantee of the lease by you and your spouse or by all the shareholders of your corporation. (Lease Section ____). The lease can be prepaid without penalty at any time during its term. (Lease Section ____). If you do not make a rent payment on time, Belmont has the right to collect the unpaid rent plus an additional two months rent, as liquidated damages. (Lease Section ____). Belmont can also obtain court costs and attorney's fees if a collection action is necessary. (Lease Section ____). If you are late with your rent more than three times during the lease term, Belmont has the right to terminate the lease, take over the premises, and terminate your franchise. If Belmont guarantees your lease, Belmont will require you to sign the guarantee agreement in Exhibit F. (Lease Section ____). This gives Belmont the same legal rights as the sublease but requires you to give Belmont the right to approve your lease and pay the rent for you if you fail to pay on time. (Lease Section ____).
- (3) If you want to lease the pipe bending machine and other equipment you

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- need, Belmont has arranged an equipment lease (see Exhibit C) from USA Credit Corporation of Las Vegas, Nevada. If you choose this option, you will pay \$100 a month for 60 months (5 years) at an APR of 15%, based on a cash price of \$5,000, with no money down. (Equipment Lease Section ____). At the end of the lease term, you may purchase the equipment with a one-time payment of \$2,500. (Equipment Lease Section ____). USA Credit requires a personal guarantee from you and your spouse or from all the shareholders of your corporation and retains a security interest in the equipment. (Equipment Lease Section ____). The equipment lease can be prepaid at any time, but the interest you might otherwise save will be reduced by application of the Rule of 78's for computing finance charges. (Equipment Lease Section ____). If you do not make a payment on time, USA Credit can demand payment of all past due payments, remove the equipment, and charge you \$1,000 as liquidated damages. (Equipment Lease Section ____). USA Credit can also recover its costs of collection, including court costs and attorney's fees. (Equipment Lease Section ____). While Belmont does not know USA Credit's policies, USA Credit may discount the lease to a third party who may be immune under the law to claims or defenses you may have against USA Credit, the equipment manufacturer or Belmont. Belmont receives a referral fee of \$500 from USA Credit for every franchisee who leases equipment from it.
- (4) If you prefer, Belmont will sell you the pipe bending machine and other necessary equipment on time. (Equipment Purchase Agreement Section ____). Belmont requires a 25% down payment of \$1,250. (Equipment Purchase Agreement Section ____). Belmont will finance the remainder over a 2-7 year period at your option at an APR of 15%. (Equipment Purchase Agreement Section ____). Payments range from \$228.11 a month over 7 years to \$821.58 a month over 2 years. (Equipment Purchase Agreement Section ____). Belmont's standard equipment financing note in Exhibit D must be personally guaranteed by you and your spouse or by all the shareholders of your corporation, and Belmont will retain a security interest in the equipment. (Equipment Purchase Agreement Section ____). You may purchase the equipment at any time during the lease period by paying the remainder of the principal plus a \$500 prepayment penalty. (Equipment Purchase Agreement Section ____). If you do not make a payment on time, Belmont can demand all overdue payments, repossess the equipment, and terminate your franchise. Belmont can also recover its costs of collection, including court costs and attorney's fees. (Equipment Purchase Agreement Section ____).
- Except as disclosed in Note 1, Belmont does not offer financing that requires you to waive notice, confess judgment or waive a defense against Belmont or the vendor, although you may lose your defenses against Belmont and others in a

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collection action on a note that is sold or discounted, as disclosed in Notes 2 and 3.

Except as disclosed in Note 3, Belmont does not arrange financing from other sources.

Except as disclosed in Notes 1 and 3, commercial paper from franchisees has not been and is not sold or assigned to anyone, and Belmont has no plans to do so.

Except as disclosed in Note 3, Belmont does not receive direct or indirect payments for placing financing.

Except as disclosed in Note 2, Belmont does not guarantee your obligations to third parties.

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Item 11

FRANCHISOR'S OBLIGATIONS

DISCLOSE THE FOLLOWING:

A. THE OBLIGATIONS THAT THE FRANCHISOR WILL PERFORM BEFORE THE FRANCHISE BUSINESS OPENS. CITE BY SECTION THE PROVISIONS OF THE AGREEMENT REQUIRING PERFORMANCE.

Item 11A Instructions:

i. Begin the disclosure by stating: "Except as listed below, the franchisor need not provide any assistance to you."

ii. Pre-opening obligations include assistance to:

- a. Locate a site for the franchised business and negotiate the purchase or lease of this site. State whether the franchisor generally owns the premises and leases it to the franchisee; and
- b. Conform the premises to local ordinances and building codes and obtain the required permits (i.e., health, sanitation, building, driveway, utility and sign permits);
- c. Construct, remodel or decorate the premises for the franchised business;
- d. Purchase or lease equipment, signs, fixtures, opening inventory and supplies. Disclose whether the franchisor provides these items directly or merely the names of approved suppliers. Disclose whether the franchisor provides written specifications for these items. Disclose whether the franchisor delivers or installs these items. (The franchisor may cross reference Item 8 for details); and
- e. Hire and train employees.

iii. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses. Use this format throughout this Item.

B. THE OBLIGATIONS TO BE MET BY THE FRANCHISOR DURING THE OPERATION OF THE FRANCHISE BUSINESS.

Item 11B Instructions:

i. Include assistance in:

- a. Products or services to be offered by the franchisee to its

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- customers:
- b. Hiring and training of employees;
 - c. Improvements and developments in the franchised business;
 - d. Pricing;
 - e. Administrative, bookkeeping, accounting and inventory control procedures; and
 - f. Operating problems encountered by the franchisee.
- ii. For the franchisor's advertising program for the product or service offered by the franchisee:
- a. Disclose the media in which the advertising may be disseminated (for example, print, radio, or television).
 - b. Disclose whether the coverage of the media is local, regional, or national in scope.
 - c. Disclose the source of the advertising (for example, in-house advertising department, a national or regional advertising agency).
 - d. Disclose the conditions when the franchisor permits franchisees to use their own advertising material.
 - e. If there is an advertising council composed of franchisees that advises the franchisor on advertising policies, disclose:
 - (1) How members of the council are selected.
 - (2) Whether the council serves in an advisory capacity only or has operational or decision-making power.
 - (3) Whether the franchisor has the power to form, change, or dissolve the advertising council.
 - f. If the franchisee must participate in a local or regional advertising cooperative, disclose:
 - (1) How the area or membership of the cooperative is defined.
 - (2) How the franchisee's contribution to the cooperative is calculated (may reference item 6).
 - (3) Who is responsible for administration of the cooperative (for example, franchisor, franchisees, advertising agency).
 - (4) Whether cooperatives must operate from written governing documents and whether the documents are available for review by the franchisee.
 - (5) Whether cooperatives must prepare annual or periodic financial statements and whether the statements are available for review by the franchisee.
 - (6) Whether the franchisor has the power to require cooperatives to be formed, changed, dissolved or merged.
 - 9. If applicable, for each advertising fund not described in above subsection (f), disclose:
 - (1) Who contributes to each fund (for example, franchisees, franchisor, franchisor-owned units, outside vendors or

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- suppliers).
- (2) Whether the franchisor-owned units must contribute to the fund and, if so, whether it is on the same bases as franchisees.
- (3) How much the franchisee must contribute to the advertising fund(s) (may reference item 6) and whether other franchisees are required to contribute at a different rate (it is not necessary to disclose the specific rates).
- (4) Who administers the fund(s). Whether the fund is audited and when, and whether financial statements of the fund are available for review by the franchisee.
- (5) Use of the fund(s) in the most recently concluded fiscal year, the percentages spent on production, media placement, administrative expenses, and other (with a description of what constitutes "other"). Totals should equal 100%.
- (6) Whether the franchisor or an affiliate receives payment for providing goods or services to an advertising fund.
- h. State whether the franchisor must spend any amount on advertising in the area or territory where the franchisee is located.
 - i. If all advertising fees are not spent in the fiscal year in which they accrue, explain how the franchisor uses the remaining amounts. Indicate whether franchisees will receive a periodic accounting of how advertising fees are spent.
 - j. Disclose the percentage of advertising funds, if any, used for advertising that is principally a solicitation for the sale of franchisees.
 - k. Cross reference Items 6, 8 and 9.
- iii. If the franchisor requires that franchisees buy or use electronic cash register or computer systems, provide a general description of the systems in non-technical language:
 - a. Identify each hardware component and software program by brand, type and principal functions.
 - (1) If the hardware component or software program is the proprietary property of the franchisor, an affiliate or a third party, state whether the franchisor, an affiliate or a third party has the contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Disclose the current annual cost of any optional or required maintenance and support contracts, upgrades and updates.
 - (2) If the hardware component or software program is the proprietary property of a third party, and no compatible equivalent component or program has been approved by the franchisor for use with the system to perform the same functions, identify the third party by name, business

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address and telephone number, and state the length of time the component or program has been in continuous use by the franchisor and its franchisees.

(3) If the hardware component or software program is not proprietary, identify compatible equivalent components or programs that perform the same functions and indicate whether they have been approved by the franchisor.

b. State whether the franchisee has any contractual obligation to upgrade or update any hardware component or software program during the term of the franchise, and if so, whether there are any contractual limitations on the frequency and cost of the obligation.

c. For each electronic cash register system or software program, describe how it will be used in the franchisee's business, and the type of business information or data that will be collected and generated. State whether the franchisor will have independent access to the information and data, and if so, whether there are any contractual limitations on the franchisor's right to access the information and data.

iv. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses.

v. Disclose if the franchisor is not obligated to provide or to assist the franchisee to obtain the above items or services.

vi. Do not repeat, but do cross reference disclosure made in Item 6.

vii. Disclose the table of contents of the operating manual(s) provided to the franchisee as of the franchisor's last fiscal year end or a more recent date. State the number of pages devoted to each subject and the total number of pages in the manual as of this date. Alternatively, this disclosure may be omitted if the prospective franchisee views the manual before purchase of the franchise.

C. THE METHODS USED BY THE FRANCHISOR TO SELECT THE LOCATION OF THE FRANCHISEE'S BUSINESS.

Item 11C Instructions:

i. Disclose whether the franchisor selects the site or approves an area within which the franchisee selects a site. Disclose how and whether the franchisor must approve a franchisee selected site.

ii. Disclose the factors which the franchisor considers in selecting or approving sites (for example, general location and neighborhood,

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traffic patterns, parking, size, physical characteristics of existing buildings and lease terms).

iii. Disclose the time limit for the franchisor to locate or to approve or disapprove the site. Disclose the consequences if the franchisor and franchisee cannot agree on a site.

iv. Disclosure made in response to Item 11A need not be repeated or cross referenced in the response to Item 11C.

D. THE TYPICAL LENGTH OF TIME BETWEEN THE SIGNING OF THE FRANCHISE AGREEMENT OR THE FIRST PAYMENT OF CONSIDERATION FOR THE FRANCHISE AND THE OPENING OF THE FRANCHISEE'S BUSINESS.

Item 11D Instructions:

i. Disclosure may be a range of times if the range is specific.

ii. Describe the factors which may affect the time period such as ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, or delayed installation of equipment, fixtures and signs.

E. THE TRAINING PROGRAM OF THE FRANCHISOR AS OF THE FRANCHISOR'S LAST FISCAL YEAR END OR A MORE RECENT DATE INCLUDING:

- (1) The location, duration and general outline of the training program;
- (2) How often the training program will be conducted;
- (3) The experience that the instructors have with the franchisor;
- (4) Charges to be made to the franchisee and who must pay travel and living expenses of the enrollees in the training program;
- (5) If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the preceding 12 months; and
- (6) Whether any additional training programs and/or refresher courses are required.

F. DESCRIBE THE NATURE AND EXTENT OF TRAINING UNDER THE FRANCHISOR'S TRAINING PROGRAM.

Item 11F Instructions:

i. Use a table to state the subjects taught and the number of hours of classroom and "on the job training" devoted to each subject in the franchisor's training program. Use footnotes to explain.

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ii. For each subject disclose the training location and how often training classes are held.

iii. Describe the location or facility where the training is held (for example, company, home, office, company owned store).

iv. State how long after the signing of the agreement or before the opening date of the business the franchisee must complete the required training.

v. Describe the nature of instruction material. Disclose the minimum experience of the instructors. Disclose only experience that is relevant to the subject taught and the franchisor's operations.

vi. State who may and who is required to attend the training. State whether the franchisee or other persons must complete the program to the franchisor's satisfaction.

vii. Charges for training or training materials should be disclosed in item 5 if the obligation to pay arises before the franchise location opens.

viii. Disclose who pays the travel and living expenses of the persons receiving the training.

Sample Answer 11

Except as disclosed below, Belmont need not provide any assistance to you.

Before you open your business, Belmont will:

(1) Designate your exclusive territory (Franchise Agreement - paragraph 2).

(2) Assist you in selecting a business site. Your site must be at least square feet in area, have parking spaces, and an average of cars per hour driving by. We must approve or disapprove your site within 20 days after we receive notice of the location.

(3) Within 30 days of your signing the Franchise Agreement, assist you to find and negotiate the lease or purchase of a location for your

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muffler shop (Franchise Agreement - paragraph _____). Your store location will be purchased or leased by you from independent third parties.

(4) Within 60 days of your signing the Franchise Agreement, provide written specifications for store construction or remodeling and for all required and replacement equipment, inventory and supplies (Franchise Agreement - paragraph _____). See item 8 of this offering circular.

(5) Within 60 days of your signing the Franchise Agreement, provide blueprints for your store construction or remodeling and obtain health, sanitation, building, utility and sign permits for your premises. You pay for the construction or remodeling (Franchise Agreement - paragraph _____).

(6) Within 60 days of your signing the Franchise Agreement, train you and one other person as follows:

Subject	Time Begun	Instructional Material	Hours of Class Room Training	Hours of on the Job Training	Instructor

Belmont does not charge for this training or service, but you must pay the travel and living expenses for you and your employees. All training occurs at Belmont's Jackson, Minnesota headquarters.

During the operation of the franchised business, Belmont will:

(1) Develop new products and methods and provide you with information about developments (Franchise Agreement - paragraph _____).

(2) Loan you a copy of our operations manual which contains mandatory and suggested specifications, standards and procedures. This manual is confidential and remains our property. Belmont will modify this manual, but the modification will not alter your status and rights under the Franchise Agreement (Franchise Agreement - paragraph _____). The table of contents is as follows:

Each week for the first 90 days after you open your shop, Belmont will

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telephone to discuss your operational problems.

Belmont will hold annual conferences to discuss sales techniques, personnel training, bookkeeping, accounting, inventory control, performance standards, advertising program and merchandising procedures. There is no conference fee, but you must pay all your travel and living expenses. These elective conferences are held at our Jackson, Minnesota headquarters or at a location chosen by a majority vote of all franchisees.

Belmont provides advertising materials and services to you through a national advertising fund (the "National Fund"). Materials provided by the National Fund to all franchisees include video and audio tapes, mats, posters, banners and miscellaneous point-of-sale items. You will receive one sample of each at no charge. If you want additional copies you must pay duplication costs.

You may develop advertising materials for your own use, at your own cost. Belmont must approve the advertising materials in advance and in writing.

Belmont occasionally provides for placement of advertising on behalf of the entire Belmont system, including franchisees. However, most placement is done on a local basis, typically by local advertising agencies hired by individual franchisees or advertising cooperatives. Belmont reserves the right to use advertising fees from the Belmont system to place advertising in national media (including broadcast, print or other media) in the future. In the past Belmont has used an outside advertising agency to create and place advertising. Neither Belmont nor its affiliate receives payment from the National Fund. Advertising funds are used to promote the product sold by the franchisee and are not used to sell additional franchisees.

The National Fund is a nonprofit corporation which collects advertising fees from all franchisees. Each franchisor owned store of Belmont contributes to the National Fund on the same basis as franchisees. All payments to the National Fund must be spent on advertising, promotion and marketing of goods and services provided by Belmont Muffler Shops. You must contribute the amounts described in Item 6, under the heading "Advertising Fees and Expenses."

The National Fund is administered by Belmont's accounting and marketing personnel under the direction of the Advertising Council. An annual audited financial statement of the National Fund is available to any franchisee upon request. During the last fiscal year of the National Fund (ending on December 31, 1990), the National Fund spent 39% of its income on the production of advertisements and other promotional materials, 36% for media placement, 18% for general and administrative expenses, and 7% for other expenses (the purchase of glassware given to customers of Belmont shops as part of a promotional campaign).

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The Advertising Council acts as the board of directors of the National Fund. The Advertising Council has 8 members: the President, Treasurer, Vice President-Marketing, and Vice President-Operations of Belmont; and 4 franchisee representatives who are elected by the governing board of the Belmont Franchise Association.

Once your shop opens, you must participate in the local advertising cooperative established in the Area of Dominant Influence (ADI) where your store is located. The amount of your contribution to the local advertising cooperative is described in Item 6 under the heading "Advertising Fees and Expenses."

Each local advertising cooperative must adopt written governing documents. A copy of the governing documents of the cooperative (if one has been established) for your ADI is available upon request. Each cooperative may determine its own voting procedures; however, each company-owned Belmont Shop will be entitled to one vote in any local advertising cooperative. The members and their elected officers are responsible for administration of the cooperative. Advertising cooperatives must prepare quarterly and annual financial statements. The annual financial statement must be prepared by an independent CPA and be made available to all franchisees in that advertising cooperative.

You select your business site within your exclusive area subject to our approval. Belmont assists in site selection by telling you the number of new car registrations, population density, traffic patterns and proximity of the proposed site to other Belmont Muffler Shops.

Franchisees typically open their shops 4 to 7 months after they sign a franchise agreement. The factors that affect this time are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, and delayed installation of equipment fixtures and signs.

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Item 12

TERRITORY

DESCRIBE ANY EXCLUSIVE TERRITORY GRANTED THE FRANCHISEE. CONCERNING THE FRANCHISEE'S LOCATION (WITH OR WITHOUT EXCLUSIVE TERRITORY), DISCLOSE WHETHER:

A. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH ANOTHER FRANCHISEE WHO MAY ALSO USE THE FRANCHISOR'S TRADEMARK.

B. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH A COMPANY-OWNED OUTLET OR OTHER CHANNELS OF DISTRIBUTION USING THE FRANCHISOR'S TRADEMARK.

Item 12 Instructions:

i. As used in Item 12, trademark includes name, trademarks, logos and other commercial symbols.

ii. If appropriate, describe the minimum area granted to the franchisee. The franchisor may use an area encompassed within a specific radius, a distance sufficient to encompass a specified population or another specific designation.

iii. State whether the franchise is granted for a specific location or a location to be approved by the franchisor.

iv. If appropriate, state the conditions under which the franchisor will approve the relocation of the franchised business or the establishment of additional franchised outlets.

v. Describe restrictions on the franchisor regarding operating company-owned stores or on granting franchised outlets for a similar or competitive business within the defined area.

vi. Describe restrictions on franchisees from soliciting or accepting orders outside of their defined territories.

vii. Describe restrictions on the franchisor from soliciting or accepting order inside the franchisee's defined territory. State compensation that the franchisor must pay for soliciting or accepting orders inside the franchisee's defined territories.

viii. Describe franchisees options, rights of first refusal or similar rights to acquire additional franchises within the territory or contiguous territories.

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ix. If the franchisor does not grant territorial rights, use Sample Answer 12-1.

C. THE FRANCHISOR OR ITS AFFILIATE HAS ESTABLISHED OR MAY ESTABLISH OTHER FRANCHISEES OR COMPANY-OWNED OUTLETS OR ANOTHER CHANNEL OF DISTRIBUTION SELLING OR LEASING SIMILAR PRODUCTS OR SERVICES UNDER A DIFFERENT TRADEMARK.

Item 12C Instructions:

i. "Similar products and services" includes competing, interchangeable or substitute products but not products or services which are not part of the same product or service market.

ii. If the franchisor or an affiliate operates, franchises or has present plans to operate or franchise a business under a different trademark and that business sells goods or services similar to those to be offered by the franchisee, describe:

a. The similar goods and services;

b. The trade names and trademarks;

c. Whether outlets will be franchisor owned or operated;

d. Whether the franchisor or its franchisees who use the different trademark will solicit or accept orders within the franchisee's territory;

e. A timetable for the plan;

f. How the franchisor will resolve conflicts between the franchisor and the franchisees and between the franchisees of each system regarding territory, customers or franchisor support; and

g. If appropriate, disclose the principal business address of the franchisor's similar operating business. If it is the same as the franchisor's principal business address disclosed in item 1, disclose whether the franchisor maintains (or plans to maintain) physically separate offices and training facilities for the similar competing business.

D. CONTINUATION OF THE FRANCHISEE'S TERRITORIAL EXCLUSIVITY DEPENDS ON ACHIEVEMENT OF A CERTAIN SALES VOLUME, MARKET PENETRATION OR OTHER CONTINGENCY AND UNDER WHAT CIRCUMSTANCES THE FRANCHISEE'S TERRITORY MAY BE ALTERED.

Item 12D Instructions:

i. Disclose conditions for the franchisee's keeping its territorial rights (for example, sales quotas or the opening of additional business outlets). Specify the quotas or conditions and the franchisor's rights if the franchisee fails to meet the requirements.

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- ii. Disclose other circumstances that permit the franchisor to modify the franchisee's territorial rights (for example, a population increase in the territory giving the franchisor the right to grant an additional franchise within the area). Disclose the effect on the franchisee's rights.

Sample Answer 12-1

You will not receive an exclusive territory. Belmont may establish other franchised or company owned outlets that may compete with your location.

Sample Answer 12-2

You will receive an exclusive territory with a minimum population of 50,000 people. You will operate from one location and must receive Belmont's permission before relocating. Belmont will not operate stores or grant franchises for a similar or competitive business within your area. Except when advertising cooperatively with appropriate franchisees, neither Belmont nor you can advertise or solicit orders within another franchisee's territory. You and Belmont can accept orders from outside your territory without special payment.

You do not receive the right to acquire additional franchisees within your area.

There is no minimum sales quota. You maintain rights to your area even though the population increases.

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Item 13
TRADEMARKS

DISCLOSE THE PRINCIPAL TRADEMARKS TO BE LICENSED TO THE FRANCHISEE INCLUDING:

Item 13 Instructions:

- i. As used in Item 13, "principal trademarks" means the primary trademarks, service marks, names, logos and symbols to be used by the franchisee to identify the franchised business. It does not include every trademark owned by a franchisor.
- ii. The franchisor may limit Item 13 disclosure to information that is relevant to the state where the franchised business will be located. The franchisor may include all states to eliminate the need for multiple disclosure in Item 13 but must amend its offering circular to reflect any material change in the list.

A. WHETHER THE PRINCIPAL TRADEMARKS ARE REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE. FOR EACH REGISTRATION STATE THE REGISTRATION DATE AND NUMBER AND WHETHER THE REGISTRATION IS ON THE PRINCIPAL OR SUPPLEMENTAL REGISTER.

Item 13A Instructions:

- i. Identify each principal trademark which the franchisee may use. The franchisor may reproduce these trademarks in this item.
- ii. State the date and identification number of each trademark registration or registration application listed. State whether the franchisor has filed all required affidavits. State whether any registration has been renewed.
- iii. State whether the principal trademarks are registered on the principal or supplemental register of the U.S. Patent and Trademark Office, and if not, whether an "intent to use" application or an application based on actual use has been filed with the U.S. Patent and Trademark Office. If the principal trademark to be used by the franchisee is not registered on the Principal Register of the U.S. Patent and Trademark Office, state:

By not having a principal federal registration for (name or description of symbol), (name of franchisor) does not have certain presumptive legal rights granted by a registration.

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B. DISCLOSE CURRENTLY EFFECTIVE MATERIAL DETERMINATIONS OF THE PATENT AND TRADEMARK OFFICE, TRADEMARK TRIAL AND APPEAL BOARD, THE TRADEMARK ADMINISTRATOR OF THIS STATE OR ANY COURT, PENDING INFRINGEMENT, OPPOSITION OR CANCELLATION; AND PENDING MATERIAL LITIGATION INVOLVING THE PRINCIPAL TRADEMARKS.

Item 13B Instructions:

i. Litigation or an action is material if it could significantly affect the ownership or use of a trademark listed under Item 13. Describe how the determination affects the ownership, use or licensing. Describe any decided infringement, cancellation or opposition proceedings. Include infringement, opposition or cancellation proceedings in which the franchisor unsuccessfully sought to prevent registration of a trademark in order to protect a trademark licensed by the franchisor.

ii. For pending material federal or state litigation regarding the franchisor's use or ownership rights in a trademark disclose:

- a. The forum and case number;
- b. The nature of claims made opposing the franchisor's use or by the franchisor opposing another person's use; and
- c. Any effective court or administrative agency ruling concerning the matter.

iii. Do not repeat disclosure made in response to Item 13A.

iv. The franchisor need not disclose historical challenges to registrations of trademarks listed in Item 13 that were resolved in the franchisor's favor.

v. The franchisor may include an attorney's opinion relative to the merits of litigation or of an action if the attorney issuing the opinion consents to its use. The text of the disclosure may include a summary of the opinion if the full opinion is attached and the attorney issuing the opinion consents to the use of the summary.

C. DISCLOSE AGREEMENTS CURRENTLY IN EFFECT WHICH SIGNIFICANTLY LIMIT THE RIGHTS OF THE FRANCHISOR TO USE OR LICENSE THE USE OF TRADEMARKS LISTED IN ITEM 13 IN A MANNER MATERIAL TO THE FRANCHISEE.

Item 13C Instructions:

For each agreement disclose:

- i. The manner and extent of the limitation or grant;

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ii. The agreement's duration;

iii. The parties to the agreement;

iv. The circumstances under which the agreement may be cancelled or modified; and

v. All other material terms.

D. WHETHER THE FRANCHISOR MUST PROTECT THE FRANCHISEE'S RIGHT TO USE THE PRINCIPAL TRADEMARKS LISTED IN ITEM 13, AND MUST PROTECT THE FRANCHISEE AGAINST CLAIMS OF INFRINGEMENT OR UNFAIR COMPETITION ARISING OUT OF THE FRANCHISEE'S USE OF THEM.

Item 13D Instructions:

i. Disclose the franchisee's obligation to notify the franchisor of the use of, or claims of rights to, a trademark licensed to the franchisor, confusingly similar to, a trademark licensed to the franchisee.

ii. State whether the franchise agreement requires the franchisor to take affirmative action when notified of these uses or claims. Identify who has the right to control administrative proceedings or litigation.

iii. State whether the franchise agreement requires the franchisor to participate in the franchisee's defense and/or indemnify the franchisee for expenses or damages if the franchisee is a party to an administrative or judicial proceeding involving a trademark licensed by the franchisor to the franchisee, or if the proceeding is resolved unfavorably to the franchisee.

iv. Disclose the franchisee's rights under the franchise if the franchisor requires the franchisee to modify or discontinue the use of a trademark as a result of a proceeding or settlement.

E. WHETHER THE FRANCHISOR ACTUALLY KNOWS OF EITHER SUPERIOR PRIOR RIGHTS OR INFRINGING USES THAT COULD MATERIALLY AFFECT THE FRANCHISEE'S USE OF THE PRINCIPAL TRADEMARKS IN THIS STATE OR THE STATE IN WHICH THE FRANCHISED BUSINESS IS TO BE LOCATED.

Item 13E Instructions:

For each use of a principal trademark that the franchisor believes constitutes an infringement that could materially affect the franchisee's use of a trademark, state:

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- i. The location(s) where the infringement is occurring;
- ii. To the extent known, the length of time of the infringement; and
- iii. Action taken by the franchisor.

If the franchisor knows of a use of a trademark by another in a geographic area relevant to the franchisee which is or is likely to be based on a claim of superior prior rights to the franchisor's, state the nature of the use by the other person and the place or area where it is occurring.

Sample Answer 13

Belmont grants you the right to operate a shop under the name Belmont Muffler Shop. You may also use our other current or future trademarks to operate your shop. By trademark Belmont means trade names, trademarks, service marks and logos used to identify your shop. Belmont registered the below trademark on the United States Patent and Trademark Office principal register:

You must follow our rules when you use these marks. You cannot use a name or mark as part of a corporate name or with modifying words, designs or symbols except for those which Belmont licenses to you. You may not use Belmont's registered name in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by Belmont.

On June 4, 1973, the United States Patent and Trademark Office rejected Belmont's application to register the mark "Super Mufflers" because the mark was found to be confusingly similar to a registered mark. Belmont's inability to register this mark on a federal level permits others to establish rights to use the mark. This use will not be in areas where our franchisees are operating, or advertising under the mark, or in the natural zone of expansion for Belmont's shops. In addition, these users must act in good faith and without actual knowledge of Belmont's prior use of the mark. However, if others establish rights to use Belmont's mark, Belmont may not be able to expand into these areas using the mark.

No agreements limit Belmont's right to use or license the use of Belmont's trademarks.

You must notify Belmont immediately when you learn about an infringement of, or

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challenge to, your use of our trademark. Belmont will take the action we think appropriate. While Belmont is not required to defend you against a claim against your use of our trademark, Belmont will reimburse you for your liability and reasonable costs in connection with defending Belmont's trademark. To receive reimbursement you must have notified Belmont immediately when you learned about the infringement or challenge.

You must modify or discontinue the use of a trademark if Belmont modifies or discontinues it. If this happens, Belmont will reimburse you for your tangible costs of compliance (for example, changing signs). You must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

Belmont does not know of any infringing uses that could materially affect your use of Belmont's trademark.

or

John E. Jones, 4231 Main Street, Reno, Nevada is currently doing business as Belmont Muffler Shoppe at 4231 Main Street, Reno, Nevada. We believe that this is an infringing use of our federally registered trademark "Belmont Muffler Shop," and we have filed an action to enjoin Mr. Jones and to recover damages. If the court holds that Mr. Jones' use is not infringing, Belmont may not be able to use Belmont's trademark in Mr. Jones' immediate area. (Belmont Muffler Shop v. Belmont Muffler Shoppe-cite)

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Item 14

PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

IF THE FRANCHISOR OWNS RIGHTS IN PATENTS OR COPYRIGHTS THAT ARE MATERIAL TO THE FRANCHISE, DESCRIBE THESE PATENTS AND COPYRIGHTS AND THEIR RELATIONSHIP TO THE FRANCHISE. INCLUDE THEIR DURATION AND WHETHER THE FRANCHISOR CAN AND INTENDS TO RENEW THE COPYRIGHTS. TO THE EXTENT RELEVANT, DISCLOSE THE INFORMATION REQUIRED BY ITEM 13 CONCERNING THESE PATENTS AND COPYRIGHTS. IF THE FRANCHISOR CLAIMS PROPRIETARY RIGHTS IN CONFIDENTIAL INFORMATION OR TRADE SECRETS, DISCLOSE THEIR GENERAL SUBJECT MATTER AND THE TERMS AND CONDITIONS FOR USE BY THE FRANCHISEE.

Item 14 Instructions:

- i. State the patent number, issue date and title for each patent. State the serial number, filing date and title of each patent application. Describe the type of patent or patent application (for example mechanical, process, or design). State the registration number and date of each copyright.
- ii. Describe the relationship of the patent, patent application or copyright to the franchised business.

iii. Describe any current determination of the Patent and Trademark Office, Copyright Office (Library of Congress) or court regarding the patent or copyright. Include the forum, case number and effect on the franchised business.

- iv. State the forum, case number, claims asserted, issues involved and effective determinations for any proceedings pending in the Patent and Trademark Office or the Court of Appeals for the Federal Circuit.

v. If counsel consents, the franchisor may include a counsel's opinion or a summary of the opinion about patent or copyright issues discussed in this Item.

vi. If an agreement limits the use of the patent, patent application or copyright, state the parties to and duration of the agreement, the extent to which the franchisee may be affected by the agreement, and other material terms of the agreement.

vii. Disclose the franchisor's obligation to protect the patent, patent application or copyright. State:

- a. Whether franchisee must notify the franchisor of claims or

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- b. Infringements or if the action is discretionary. Whether the franchisor must take affirmative action when notified of infringement or if the action is discretionary.
- c. Who has the right to control litigation.
- d. Whether the franchisor must participate in the defense of a franchisee or indemnify the franchisee for expenses or damages in a proceeding involving a patent, patent application or copyright licensed to the franchisee.
- e. Requirements that the franchisee modify or discontinue use of the subject matter covered by the patent or copyright.
- f. Franchisee's rights if the franchisor requires the franchisee to modify or discontinue the use of the subject matter covered by the patent or copyright.

viii. If the franchisor actually knows of an infringement that could materially affect the franchisee, state:

- a. The nature of the infringement.
- b. The location(s) where the infringement is occurring.
- c. The length of time of the infringement.
- d. Action taken or anticipated by the franchisor.

ix. State whether the franchisor intends to renew the copyright when the registration expires.

x. Discuss in general terms other proprietary information communicated to the franchisee (for example, whether there is a formula or recipe considered to be a trade secret).

xi. Use Sample Answer 14-1 if no patents or copyrights are material to the franchisee.

Sample Answer 14-1

No patents or copyrights are material to the franchisee.

Sample Answer 14-2

You do not receive the right to use an item covered by a patent or copyright, but you can use the proprietary information in Belmont's Operations Manual. The Operations Manual is described in Item 11. Although Belmont has not filed an application for a copyright registration for the Operations Manual, it

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claims a copyright and the information is proprietary. Item 11 describes limitations on the use of this manual by you and your employees.

You must also promptly tell us when you learn about unauthorized use of this proprietary information. Belmont is not obligated to take any action but will respond to this information as we think appropriate. Belmont will indemnify you for losses brought by a third party concerning your use of this information.

Sample Answer 14-3

U.S. Patent 3999442 was issued on December 14, 1980. It describes a process for exhaust system installation. The process describes the steps in making a straight length of exhaust pipe, bending this pipe, coating the inside and outside of this pipe with our Pipe Protector and installing the exhaust pipe on a motor vehicle. You will use equipment utilizing this process.

On December 15, 1970, Belmont obtained a copyright registration for its Operations Manual under Registration A41139. Amendments to the manual were registered on January 7, 1983 (Reg. A521,371) and June 6, 1974 (Reg. A 541,333). Belmont intends to renew these copyrights. Item 11 of this Offering Circular describes the Operations Manual and the manner in which you are permitted to use it.

Belmont's right to use or license these patents and copyrighted items is not materially limited by any agreement or known infringing use.

You must tell us immediately if you learn about an infringement or challenge to our use of these patents or copyrights. Belmont will take the action that Belmont thinks appropriate. You must also agree not to contest Belmont's interest in these or our other trade secrets.

If Belmont decides to add, modify or discontinue the use of an item or process covered by a patent or copyright, you must also do so. Belmont's sole obligation is to reimburse you for the tangible cost of complying with its obligation.

Although Belmont is not obligated to defend your use of these items or processes, Belmont will reimburse you for damages and reasonable costs incurred in litigation about them.

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Item 15

OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS
DISCLOSE THE FRANCHISEE'S OBLIGATION TO PARTICIPATE PERSONALLY IN THE DIRECT OPERATION OF THE FRANCHISE BUSINESS AND WHETHER THE FRANCHISOR RECOMMENDS PARTICIPATION.

Item 15 Instructions:

i. Include obligations arising from written agreement (including personal guaranty, confidentiality agreement or noncompetition agreement) or from the franchisor's practice.

ii. If personal "on premises" supervision is not required:

- a. If the franchisee is an individual, state whether the franchisor recommends "on premises" supervision by the franchisee;
- b. State limitations on whom the franchisee can hire as an on premises supervisor;
- c. Whether this "on premises" supervisor must successfully complete the franchisor's training program; and
- d. If the franchisee is a business entity, state the amount of equity interest that the "on premises" supervisor must have in the franchisee.

iii. Disclose the restrictions which the franchisee must place on its manager (for example, maintain trade secrets, non-competition).

iv. The franchisor may reference Items 14 and 17 in its answer.

Sample Answer 15-1

If you are an individual, you must directly supervise the franchised business on its premises. If you are a corporation, the direct, on-site supervision must be done by a person who owns at least 1/3 of the corporate equity.

Sample Answer 15-2

Belmont does not require that you personally supervise the franchised business. The business must be directly supervised "on premises" by a manager who has

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successfully completed Belmont's training program. The on premises manager cannot have an interest or business relationship with any of Belmont's business competitors. The manager need not have an ownership interest in a corporate or partnership franchisee. The manager must sign a written agreement to maintain confidentiality of the trade secrets described in Item 14 and to conform with the covenants not to compete described in Item 17.

Each individual who owns a 5% or greater interest in the franchisee entity must sign an agreement (Exhibit) assuming and agreeing to discharge all obligations of the "franchisee" under the Franchise Agreement.

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Item 16

RESTRICTIONS ON
WHAT THE FRANCHISEE MAY SELL

DISCLOSE RESTRICTIONS OR CONDITIONS IMPOSED BY THE FRANCHISOR ON THE GOODS OR SERVICES THAT THE FRANCHISEE MAY SELL OR THAT LIMIT THE CUSTOMERS TO WHOM THE FRANCHISEE MAY SELL GOODS OR SERVICES.

Item 16 Instructions:

- i. Describe the franchisee's obligation to sell only goods and services approved by the franchisor.
- ii. Disclose any franchisee obligation to sell all goods and services authorized by the franchisor. Disclose whether the franchisor has the right to change the types of authorized goods and service and whether there are limits on the franchisor's right to make changes.
- iii. If the franchisee is restricted regarding customers, disclose the restrictions.
- iv. The applicant may cross reference disclosures made in Items 8, 9, and 12.
- v. Use Sample Answer 16-1 for a negative response.

Sample Answer 16-1

Belmont does not restrict the type of goods or services that you may offer.

Sample Answer 16-2

Belmont requires you to offer and sell only those goods and services that Belmont has approved (see Item 9).

You must offer all goods and services that Belmont designates as required for all franchisees. These required services are muffler inspection, repair and replacement. Parts, supplies, and equipment used in your Belmont Muffler business must be approved by Belmont (see Item 8).

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Belmont has the right to add additional authorized services that the franchisee is required to offer. There are no limits on Belmont's right to do so except that the investment required of a franchisee (for equipment, supplies and initial inventory) will not exceed \$5,000 per year.

Belmont also designates some services as optional for qualified franchisees. Current optional services are brake inspection, repair and replacement, tire rotation, wheel balancing, and alignment and rustproofing. To offer optional goods or services, you must be in substantial compliance with all material obligations under your Franchise Agreement. In addition, Belmont may require you to comply with other requirements (such as training, marketing, insurance) before Belmont will allow you to offer certain optional services.

As long as you meet your annual agreed sales quotas (see Item 12), Belmont will not restrict you from soliciting any customers, no matter who they are or where they are located. If you do not meet your annual sales quota, Belmont may deny you the right to receive any further fleet business referrals from Belmont and may either keep the fleet business referrals for itself or give them to another franchisee. Failure to meet your annual sales quota is a default under your Franchise Agreement and grounds for termination of your franchise (see Item 17).

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Item 17

RENEWAL, TERMINATION, TRANSFER
AND DISPUTE RESOLUTION

SUMMARIZE THE PROVISIONS OF THE FRANCHISE AND OTHER AGREEMENTS DEALING WITH TERMINATION, RENEWAL, TRANSFER, DISPUTE RESOLUTION AND OTHER IMPORTANT ASPECTS OF THE FRANCHISE RELATIONSHIP.

Item 17 Instructions:

- i. Begin Item 17 disclosure with the following statement:

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

- ii. Respond in tabular form. Refer to the section of the agreement which covers each subject.

- iii. Use a separate table for any other significant franchise-related agreement. If a provision in any other agreement affects the provisions of the franchise or franchise-related agreements disclosed in this Item (for example, the term of the franchise will be equal to the term of the lease), disclose that provision in the applicable category in the table.

- iv. The table should contain a "summary" column to summarize briefly the disclosed provision. The summary is intended to provide a concise overview of the provision in no more than a few words or a sentence. Do not specify in detail all matters covered by a provision.

- v. The table should respond to each category listed below. Do not change the names of the categories. List all contractual provisions relevant to each category in the table. If the response to any category is that the agreement does not contain the relevant provision, the table should so state. If the agreement is silent concerning a category but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, a footnote should describe this policy and state whether the policy is subject to change. The categories are:

- a. Length of the term of the franchise
- b. Renewal or extension of the term
- c. Requirements for franchisee to renew or extend
- d. Termination by franchisee

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- e. Termination by franchisor without cause
- f. Termination by franchisor with "cause"
- g. "Cause" defined - curable defaults
- h. "Cause" defined - defaults which cannot be cured
- i. Franchisee's obligations on termination/non-renewal
- j. Assignment of contract by franchisor
- k. "Transfer" by franchisee - Denied
- l. Franchisor approval of transfer by franchisee
- m. Conditions for franchisor approval of transfer
- n. Franchisor's right of first refusal to acquire franchisee's business
- o. Franchisor's option to purchase franchisee's business
- p. Death or disability of franchisee
- q. Non-competition covenants during the term of the franchise
- r. Non-competition covenants after the franchise is terminated or expires
- s. Modification of the agreement
- t. Integration/merger clause
- u. Dispute resolution by arbitration or mediation
- v. Choice of forum
- w. Choice of law

Sample Answer 17

This table lists important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

Provision	Section in Franchise Agreement	Summary
a. Term of the franchise of the term	Section 1 (also Section 1 of Lease, Exhibit F)	Term is equal to lease term - 10 years
b. Renewal or extension	Section 20	If you are in good standing you can add additional term equal to renewal term of lease (10 years max.)

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- c. Requirements for you to renew or extend
- d. Termination by you
- e. Termination by Belmont without cause
- f. Termination by
- Section 21
- Belmont can terminate only if franchisee defaults
- Section 21B
- You have 30 days to cure: non-payment of fees, sanitation problems, non-submission of reports and any other default not listed in Sec. 21A
- Section 22
- Noncurable defaults: conviction of felony, repeated defaults even if cured, abandonment, trademark misuse and unapproved transfers
- Section 22
- Obligations include complete identification and payment of amounts due (also see r, below)
- Section 18
- No restriction on Belmont's right to assign
- Section 19A
- Includes transfer of contract or assets or ownership change
- Section 19B
- Belmont has the right to approve all transfers but will not unreasonably withhold approval

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- m. Conditions for Belmont approval of transfer
Section 19C
New franchisee qualifies, transfer fee is paid, purchase agreement approved, training arranged, release signed by you and current agreement signed by new franchisee (also see r, below)
- n. Belmont's right of first refusal to acquire your business
Section 19F
Belmont can match any offer for the franchisee's business
- o. Belmont's option to purchase your business
None, but see policy described in Note 1
- p. Your death or disability
Section 19D
Franchise must be assigned by estate to approved buyer in 6 months
- q. Non-competition covenants during the term of the franchise
Section 11
No involvement in competing business anywhere in U.S.
- r. Non-competition covenants after the franchise is terminated or expires
Section 19C and 22C
No competing business for 2 years within 20 miles of another Belmont franchise (including after assignment)
- s. Modification of the agreement
Section 8A
No modifications generally but Operating Manual subject to change
- t. Integration/merger clause
Section 29
Only the terms of the franchise agreement are binding (subject to state law). Any other promises may not be enforceable

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- u. Dispute resolution by arbitration or mediation
Section 24
Except for certain claims, all disputes must be arbitrated in (state)
- v. Choice of forum
Section 27
Litigation must be in (state)
- w. Choice of law
Section 28
(state) law applies

Note:

(1) Franchisor is not obligated by the Agreement to do so, but, if the franchise is terminated, franchisor's policy is to buy back inventory at fair market value. This policy is subject to change at any time.

These states have statutes which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise: ARKANSAS (Stat. Section 70-807), CALIFORNIA (Bus. & Prof. Code Sections 20000-20043), CONNECTICUT (Gen. Stat. Section 42-133e et seq.), DELAWARE (Code, Tit.), HAWAII (Rev. Stat. Section 482E-1), ILLINOIS [815 Compiled Stat. 705/19 and 20], INDIANA (Stat. Section 23-2-2.7), IOWA (Code Sections 523H.1-523H.17), MICHIGAN (Stat. Section 19.854(27)), MINNESOTA (Stat. Section 80C.14), MISSISSIPPI (Code Section 75-24-51), MISSOURI (Stat. Section 407.400), NEBRASKA (Rev. Stat. Section 87-401), NEW JERSEY (Stat. Section 56:10-1), SOUTH DAKOTA (Codified Laws Section 37-5A-51), VIRGINIA (Code 13.1-557-574-13.1-564), WASHINGTON (Code Section 19.100.180), WISCONSIN (Stat. Section 135.03). These and other states may have court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

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Item 18

PUBLIC FIGURES

DISCLOSE THE FOLLOWING:

A. COMPENSATION OR OTHER BENEFIT GIVEN OR PROMISED TO A PUBLIC FIGURE ARISING FROM:

- (1) The use of the public figure in the franchise name or symbol or
- (2) The endorsement or recommendation of the franchise to prospective franchisees.

B. THE EXTENT TO WHICH THE PUBLIC FIGURE IS INVOLVED IN THE ACTUAL MANAGEMENT OR CONTROL OF THE FRANCHISOR.

C. THE TOTAL INVESTMENT OF THE PUBLIC FIGURE IN THE FRANCHISOR.

Item 18 Instructions:

- i. A "public figure" is a person whose name or physical appearance is generally known to the public in the geographic area where the franchise will be located.
- ii. Disclose the compensation paid or promised for the endorsement or use of the name of the public figure.
- iii. Describe the public figure's position and duties in the franchisor's business structure.
- iv. State the amount of the public figure's investment. Describe the extent of the amount contributed in services performed or to be performed. State the type of investment (for example, common stock, promissory note).
- v. Use Sample Answer 18-1 for a negative response.

Sample Answer 18-1

Belmont does not use any public figure to promote its franchise.

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Sample Answer 18-2

Belmont has paid Ralph Doister \$50,000 for the use of his name in promoting the sale of our franchise. The right expires December 31, 1992. Belmont has produced newspaper ads, a brochure and a video which feature Mr. Doister. Mr. Doister does not manage or own an interest in Belmont.

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Item 19

EARNINGS CLAIMS

A. AN EARNINGS CLAIM MADE IN CONNECTION WITH AN OFFER OF A FRANCHISE MUST BE INCLUDED IN FULL IN THE OFFERING CIRCULAR AND MUST HAVE A REASONABLE BASIS AT THE TIME IT IS MADE. IF NO EARNINGS CLAIM IS MADE, ITEM 19 OF THE OFFERING CIRCULAR MUST CONTAIN THE NEGATIVE DISCLOSURE DESCRIBED IN THE INSTRUCTION.

Item 19 Instructions:

i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained.

A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item.

An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this item 19, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be prepared in accordance with this item 19, and be left with the prospective franchisee.

iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchises; if made, however, its presentation must conform with this item 19. If an earnings claim is not made, then negative disclosure 19 (below) must be used.

iv. Claims regarding future performance: A statement or prediction of future performance that is prepared as a forecast or projection in accordance with the statement on standards for accountants' services on prospective financial information (or its successor) issued by the

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American Institute of Certified Public Accountants, Inc., is presumed to have a reasonable basis.

v. Burden of proof: The burden is upon the franchisor to show that it had a reasonable basis for its earnings claim.

[NEGATIVE DISCLOSURE 19]

REPRESENTATIONS REGARDING EARNINGS CAPABILITY

Belmont does not furnish or authorize its salespersons to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of [a Belmont muffler shop]. Actual results vary from unit to unit and Belmont cannot estimate the results of any particular franchisee.

B. AN EARNINGS CLAIM SHALL INCLUDE A DESCRIPTION OF ITS FACTUAL BASIS AND THE MATERIAL ASSUMPTIONS UNDERLYING ITS PREPARATION AND PRESENTATION.

Item 19B Instructions:

i. Factual Basis: The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes, for example, economic or market conditions which are basic to a franchisee's operation and encompass matters affecting, among other things, franchisee's sales, the cost of goods or services sold and operating expenses.

In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor or franchisees of that person; provided that disclosure is made of any material differences in the economic or market conditions known to, or reasonably ascertainable by, the franchisor.

ii. Basic Disclosures: The earnings claim must state:

- Material assumptions, other than matters of common knowledge, underlying the claim (see Definition iii under Item 3 for the definition of "material");
- A concise summary of the basis for the claim including a statement of whether the claim is based upon actual experience of franchised units and, if so, the percentage of franchised outlets

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in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;

c. A conspicuous admonition that a new franchisee's individual financial results are likely to differ from the result stated in the earnings claim; and

d. A statement that substantiation of the data used in preparing the earnings claim will be made available to the prospective franchisee on reasonable request.

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Item 20

LIST OF OUTLETS

A. THE NUMBER OF FRANCHISES OF A TYPE SUBSTANTIALLY SIMILAR TO THOSE OFFERED AND THE NUMBER OF FRANCHISOR OWNED OR OPERATED OUTLETS AS OF THE CLOSE OF EACH OF THE FRANCHISOR'S LAST 3 FISCAL YEARS. SEGREGATE FRANCHISES THAT ARE OPERATIONAL FROM FRANCHISES NOT YET OPERATIONAL. SEGREGATE DISCLOSURE BY STATE, TOTAL EACH CATEGORY.

B. THE NAMES OF ALL FRANCHISERS AND THE ADDRESSES AND TELEPHONE NUMBERS OF ALL OF THEIR OUTLETS. THE FRANCHISOR MAY LIMIT ITS DISCLOSURE TO ALL FRANCHISEE OUTLETS IN THE STATE, BUT IF THESE FRANCHISEE OUTLETS TOTAL FEWER THAN 100, DISCLOSE FRANCHISEE OUTLETS FROM ALL CONTIGUOUS STATES AND THEN THE NEXT CLOSEST STATE(S) UNTIL AT LEAST 100 FRANCHISEE OUTLETS ARE LISTED.

C. THE ESTIMATED NUMBER OF FRANCHISES TO BE SOLD DURING THE 1 YEAR PERIOD AFTER THE CLOSE OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR.

D. THE NUMBER OF FRANCHISEE OUTLETS IN THE FOLLOWING CATEGORIES THAT, FOR THE 3-YEAR PERIOD IMMEDIATELY BEFORE THE CLOSE OF FRANCHISOR'S MOST RECENT FISCAL YEAR, HAVE:

- (1) Transferred controlling ownership;
- (2) Been cancelled or terminated by the franchisor;
- (3) Not been renewed by the franchisor;
- (4) Been reacquired by the franchisor; or
- (5) Been reasonably known by the franchisor to have otherwise ceased to do business in the system.

E. THE NAME AND LAST KNOWN HOME ADDRESS AND TELEPHONE NUMBER OF EVERY FRANCHISEE WHO HAS HAD AN OUTLET TERMINATED, CANCELLED, NOT RENEWED, OR OTHERWISE VOLUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT DURING THE MOST RECENTLY COMPLETED FISCAL YEAR OR WHO HAS NOT COMMUNICATED WITH THE FRANCHISOR WITHIN 10 WEEKS OF THE APPLICATION DATE.

Item 20 Instructions:

- i. Do not include a transfer when beneficial ownership of the franchise does not change.
- ii. List an outlet that is reacquired by the franchisor in that column

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whether or not it also fits another category.

iii. Other than the franchisee names, addresses, and telephone numbers, disclose item 20 information in tabular form. Use footnotes or a "remarks" column to elaborate on information in the table or to disclose caveats. Disclose the number of franchised and franchisor owned outlets sold, opened and closed. Disclose the total number of franchised and franchisor owned outlets open at the end of each year. Disclose information for each of the last 3 fiscal years.

iv. If an outlet has been operated by more than one franchisee, disclose each transfer in the transfer column.

v. Disclose information about franchisor owned outlets that are substantially similar to the franchised outlets. In this item "franchisor owned" outlets include outlets owned by the franchisor and by its affiliates. Use a separate table with a format similar to the format for franchised outlets. The same table may be used if the franchisor owned outlets are separated from franchised outlets.

vi. For franchisees operating within the system disclose franchisee business addresses and telephone numbers. List outlets owned by the persons listed in Item 2 and their immediate families or by business entities owned by them as franchisor owned outlets. These outlets can be identified in the table by an asterisk.

vii. Separate information by state. List all states for which franchisor has information responsive to this item.

viii. When the requirement states "most recent fiscal year," the franchisor may use a more recent date if it discloses that date and uses that date for all disclosures in this item.

ix. When the requirement states "most recent fiscal year," the state may require a more recent date.

Sample Answer 20

FRANCHISED
STORE STATUS SUMMARY
FOR YEARS 1992/1991/1990

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FRANCHISED STORE STATUS SUMMARY FOR YEARS 1992/1991/1990						
State	Transfers	Not Canceled or Terminated	Reacquired by Franchisor	Terminated from left column (b)	Transfers operating at year end	
Alaska				210	210	
Arizona	210			210	210	
Arkansas				61	61	
California			1710	110	420	
Colorado				111	111	
Connecticut				511	511	
Delaware	100			100	610	
Florida				210	210	
Georgia				200	200	
Idaho				210	210	
Iowa	210	1000	0000	110	420	4020.8

Notes:

(1) All numbers are as of December 31 for each year.

(2) The numbers in the "Total" column may exceed the number of stores affected because several events may have affected the same store. For example, the same store may have had multiple owners.

STATUS OF COMPANY OWNED STORES
FOR YEARS 1992/1991/1990

STATE	STORES CLOSED DURING YEAR	STORES OPENED DURING YEAR	TOTAL STORES OPERATING AT YEAR END
Alaska			
Arizona			

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Arkansas
California
Colorado
Connecticut
Delaware
Florida
Georgia
Idaho

Totals 0/0/0 0/0/0 0/0/0

Note: Belmont no longer operates company owned stores.

PROJECTED OPENINGS AS OF DECEMBER 31, 1992		
FRANCHISE AGREEMENT SIGNED BUT STORE NOT OPEN (1)	PROJECTED FRANCHISED NEW STORES IN THE NEXT FISCAL YEAR	PROJECTED COMPANY OWNED OPENINGS IN NEXT FISCAL YEAR
STATE		
Alaska	1	
Arizona		1
Arkansas		
California		
Colorado		
Connecticut		2
Delaware		
Florida		
Georgia		
Idaho		1

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Totals 2 3 0

Note:

(1) As of December 31, 1992

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Item 21

FINANCIAL STATEMENTS

PREPARE FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THESE FINANCIAL STATEMENTS MUST BE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UNAUDITED STATEMENTS MAY BE USED FOR INTERIM PERIODS. INCLUDE THE FOLLOWING FINANCIAL STATEMENTS:

A. THE FRANCHISOR'S BALANCE SHEETS FOR THE LAST TWO FISCAL YEAR ENDS BEFORE THE APPLICATION DATE. IN ADDITION INCLUDE STATEMENTS OF OPERATIONS OF STOCKHOLDERS' EQUITY AND OF CASH FLOWS FOR EACH OF THE FRANCHISOR'S LAST THREE FISCAL YEARS. IF THE MOST RECENT BALANCE SHEET AND STATEMENT OF OPERATIONS ARE AS OF A DATE MORE THAN 90 DAYS BEFORE THE APPLICATION DATE, THEN ALSO SUBMIT AN UNAUDITED BALANCE SHEET AND STATEMENT OF OPERATIONS AS OF A DATE WITHIN 90 DAYS OF THE APPLICATION DATE.

B. AFFILIATED COMPANY STATEMENTS. INSTEAD OF THE DISCLOSURE REQUIRED BY ITEM 21A, THE FRANCHISOR MAY INCLUDE FINANCIAL STATEMENTS OF ITS AFFILIATED COMPANY IF THE AFFILIATED COMPANY'S FINANCIAL STATEMENTS SATISFY ITEM 21A AND THE AFFILIATED COMPANY ABSOLUTELY AND UNCONDITIONALLY GUARANTEES TO ASSUME THE DUTIES AND OBLIGATIONS OF THE FRANCHISOR UNDER THE FRANCHISE AGREEMENT.

C. CONSOLIDATED AND SEPARATE STATEMENTS:

(1) When a franchisor owns a direct or beneficial, controlling financial interest in another corporation, its financial statements should reflect the financial condition of the franchisor and its subsidiaries.

(2) If the applicant is a subfranchisor include separate financial statements for the franchisor and subfranchisor related entity.

(3) Prepare consolidated and separate financial statements in accordance with generally accepted accounting principles.

Item 21 Instructions:

- i. States may require financial statements additional to those listed in this item.
- ii. A company controlling 80% or more of a franchisor may be required to include its financial statements.
- iii. Present required financials in a format of columns which compare at least 2 fiscal years.

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iv. In Item 21A, the required financial statements for a franchisor with a calendar fiscal year end and a July 15, 1989 application filing date are:

- a. Unaudited balance sheet as of either April 30, May 31 or June 30, 1989 with an unaudited income statement for the period from January 1, 1989 to the date of the balance sheet;
- b. Balance sheets, statements of operations, of stockholders equity and of cash flow. The balance sheets should be audited and as of December 31, 1987 and 1988. The remaining statements should be audited and should be for periods ending December 31, 1986, 1987 and 1988; and
- c. If the franchisor has never had an audit, it need not supply the financial statement required by (b) if it supplies either an audit as of its last fiscal year end or the statements required by (a) in an audited form.

v. In the Item 21B response, the affiliate's guarantee need cover only the franchisor's obligations to the franchisee. The guarantee need not extend to third parties. A sample guarantee is on page in Exhibit

vi. In the Item 21B response the filing state may permit a surety bond instead of the parent company's guarantee.

vii. Disclose the existence of a guarantee.

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Item 22

CONTRACTS

ATTACH A COPY OF ALL AGREEMENTS PROPOSED FOR USE OR IN USE IN THIS STATE REGARDING THE OFFERING OF A FRANCHISE, INCLUDING THE FRANCHISE AGREEMENT, LEASES, OPTIONS AND PURCHASE AGREEMENTS.

Item 22 Instructions:

- i. Copies of agreements attached to the offering circular under Item 22 are part of the offering circular. Each offering circular delivered to a prospective franchisee must include copies of all agreements to be offered.
- ii. The franchisor may cross reference Item 10 for financing agreements.

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Item 23

RECEIPT

THE LAST PAGE OF THE OFFERING CIRCULAR IS A DETACHABLE DOCUMENT ACKNOWLEDGING RECEIPT OF THE OFFERING CIRCULAR BY THE PROSPECTIVE FRANCHISEE. IT MUST CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE:

THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF OFFERS YOU A FRANCHISE, MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) The first personal meeting to discuss our franchise; or
- (2) Ten business days before the signing of a binding agreement; or
- (3) Ten business days before a payment to

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN A FRANCHISE AGREEMENT.

IF DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE ILLINOIS ATTORNEY GENERAL OFFICE, 500 SOUTH SECOND STREET, SPRINGFIELD, ILLINOIS 62706. (Any additional state disclosure time or required statutory language.)

Item 23 Instructions:

- i. Place the name of the franchisor in the blank.
- ii. Make two copies of the Receipt: one for retention by the franchisee and one by the franchisor.
- iii. Disclose the name, principal business address and telephone number of the franchisor or franchise broker offering the franchise in this State.
- iv. List the title of all attached exhibits.
- v. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.).

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vi. The name and address of the franchisor's registered agent authorized to receive service of process if not disclosed in Item 1.

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NOTICE OF ADOPTED AMENDMENTS

Date

Franchisee

(Source: Amended at 23 Ill. Reg.

21561

effective

SEP - 7 1989

Sample Answer 23

RECEIPT

THIS OFFERING CIRCULAR SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF BELMONT OFFERS YOU A FRANCHISE, BELMONT MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- (2) TEN BUSINESS DAYS BEFORE SIGNING OF A BINDING AGREEMENT; OR
- (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT TO BELMONT.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF BELMONT DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND (STATE AGENCY).

Belmont authorizes Legal Process Corp at 448 West Washington Avenue, City, State to receive service of process for Belmont. I have received a Uniform Franchise Offering Circular dated . This offering circular included the following Exhibits:

- A. License Agreement
- B. Equipment Lease
- C. Lease for Premises
- D. Loan Agreement

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NOTICE OF ADOPTED AMENDMENTS

Section 200. ILLUSTRATION N Limited Partnership Acknowledgement

STATE OF _____)
COUNTY OF _____) SS

On this _____ day of _____, 19____, before me the undersigned officer, personally appeared _____ and _____ to me known personally to be the authorized representative(s) of _____, a limited partnership, whose name(s) is signed to the foregoing instrument, and that he (they), as such representative(s), being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited partnership by himself (themselves) as such authorized representative(s).

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

(Notarial Seal)

My Commission expires: _____
(Source: Amended at 23 Ill. Reg. 11561, effective
SEP-7-1999)

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Section 200. ILLUSTRATION M Joint Venture Agreement & Acknowledgment

STATE OF _____)
COUNTY OF _____) SS

On this _____ day of _____, 19____, before me the undersigned officer, personally appeared _____ and _____ to me known personally to be the authorized representative(s) of _____, a joint venture undertaking, whose name(s) is signed to the foregoing instrument, and that he (they), as such representative(s) being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the joint venture by himself (themselves) as such authorized representative(s).

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

(Notarial Seal)

My Commission expires: _____
(Source: Amended at 23 Ill. Reg. 11561, effective
SEP-7-1999)

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Section 200. APPENDIX B Franchise Broker Registration Forms

Section 200. ILLUSTRATION B Broker Authorization

To Whom It May Concern:

{Broker's name} ("Broker") is hereby authorized to act as Franchise Broker and sell franchises on behalf of our company.

(Check one of the Following)

A. {Broker's name} shall not accept payment from any Illinois franchisee in its own name, but shall only accept checks payable to our company and shall forward said checks and applications to us within _____ days after receipt of same.

B. {Broker's name} shall accept payment from franchisees in its own name.

C. Broker is not authorized to accept cash, checks or other payments from prospective franchisees on behalf of our company.

By: _____
(Franchisor)
Title: _____

(Source: Amended at 23 Ill. Reg. 11561 effective 5/1/1989)

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Section 200. ILLUSTRATION C Franchise Broker Surety Bond

We, {broker name}, a corporation, with principal offices at {broker address}, as principal, and {name of Surety}, a Surety Company with principal offices at {Surety address}, {name of Surety} incorporated under the laws of the State of {identify state} and authorized to conduct business in the State of Illinois as Surety, are bound to the Illinois Attorney General, Obligor in the sum of _____ to be paid to the Obligor or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Illinois Attorney General for registration as a franchise broker under the Illinois Franchise Disclosure Act (815 ILCS 705) and is required pursuant to the Rules and Regulations promulgated under the Illinois Franchise Disclosure Act to post bond in the amount of _____.

WHEREAS, the Obligor intends to assign this bond to the respective purchaser(s) of the aforementioned franchise upon sale of the aforementioned franchise(s) to said purchaser(s).

THEREFORE, the condition of this obligation is that the principal:

1. Comply with the Illinois Franchise Disclosure Act and Regulations promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the Broker's violation of said Illinois Franchise Disclosure Act or any Rules or Regulations promulgated thereunder or any acts, rules, regulations, or orders amendatory thereof, and/or supplementary thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made, in the light of the circumstances under which such statement was made, not misleading.

This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full years after the date of execution shown below.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the County in which the offer or sale of the franchise occurred.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at _____ this _____ day of _____, 19____.

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Principal _____

Surety _____

(Source: Amended at 23 Ill. Reg. **11561**, effective
SEP 7 1999)

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Section 200. ILLUSTRATION D Broker Guaranty of Performance

For value received _____ (name of guarantor), located at _____ (address), absolutely and unconditionally guarantees the performance by broker, _____ (name of broker) of all obligations under the Illinois Franchise Disclosure Act and Rules, incurred in the sale of franchises in the State of _____ and any underlying contractual responsibilities resulting from the sale of franchises occurring after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time. This guaranty shall continue in force until all such obligations of broker shall have been satisfied or until such liability of broker to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against broker remains outstanding. Notice of acceptance is waived. Notice of default on the part of broker is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guarantee at _____, this _____ day of _____, 19____.

ATTEST

Guarantor

By: _____

Title: _____

(Source: Amended at 23 Ill. Reg. **11561**, effective
SEP 7 1999)

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Section 200. APPENDIX C Escrow Forms

Section 200. ILLUSTRATION A Escrow Agreement

Agreement, made this _____ day of _____, 19____, by _____ (name of franchisor), a _____ (type of business entity) organized under the laws of the State of _____ (hereinafter referred to as "franchisor"), and _____ (hereinafter referred to as "BANK", as Escrowee for the franchisees of Franchisor; WHEREAS, Franchisor is desirous of establishing franchises in the State of Illinois; and

WHEREAS, it is in the discretion of the Illinois Attorney General as administrator of the Illinois Franchise Disclosure Act, to require an escrow of the franchise fees; and

WHEREAS, in order to conform to the procedures for arranging an escrow account, Franchisor desires to enter into an escrow agreement with BANK, pursuant to which initial franchise fees are to be held in escrow until Franchisor has met its initial obligations to its franchisees. NOW THEREFORE, with the foregoing recitals hereinafter incorporated by reference and made a part hereof, it is agreed as follows:

1. Franchisor shall deposit with BANK initial franchise fees received from franchisees that are required to be escrowed under the order of the Administrator, but BANK shall not be responsible for insuring that any part or all moneys received by Franchisor from each or any one franchisee are deposited with BANK.

2. Franchisor will supply BANK with the name and address of each franchisee, together with the amount of the deposit which represents moneys paid by each franchisee and BANK will maintain records containing the same information.

3. All moneys received by BANK from Franchisor shall be held by BANK as escrowee for the exclusive purpose herein described and will be placed in a single segregated account designated substantially as follows:

_____(Name of Bank), AS ESCROWEE FOR FRANCHISEES OF _____ (Name of Franchisor) _____ (hereinafter referred to as "Escrow Account.")

4. BANK shall accept such funds as Franchisor shall deliver to BANK, as escrowee, and BANK shall acknowledge the receipt of funds from Franchisor; however, BANK shall not be responsible for the accuracy of the information provided to it by Franchisor.

5. Any funds deposited hereunder in the Escrow Account shall be invested and kept invested by BANK, at the option of the Franchisor, in instruments of its choosing, until they are to be disbursed as provided in paragraph 6 hereof. All interest received and any increment thereon shall be added to the funds so deposited in the Escrow Account and shall be distributed as provided in paragraph 6.

6. BANK shall pay out funds, plus interest, if any, from the Escrow Account upon the occurrence of one of the following conditions:

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(a) Upon receipt of a letter from an officer of Franchisor directing BANK to pay out such funds to Franchisor, accompanied by a written notice from the Administrator stating that he takes no exception (hereinafter referred to as "No Exception Notice") to the release, BANK shall pay part or all of the moneys held in escrow for the benefit of a specified franchisee, plus interest, if any, to Franchisor.

(b) Upon written notice from the Administrator BANK shall return part or all of the deposited franchise fee and other funds, plus interest, if any, to a specified franchisee.

(c) BANK shall pay funds into court or disburse or deliver them in accordance with any final order of any court of competent jurisdiction.

BANK shall not be personally liable for any act taken or omitted by it in good faith and in the exercise of its own best judgment. BANK shall also be fully protected in relying upon any written notice, demand, certificate or document which it in good faith believes to be genuine.

7. BANK is authorized, in its sole discretion, to disregard any and all notices or instructions given by any of the undersigned or by any other person, firm or corporation, except only such notices or instructions by the Administrator as are hereinafter provided for and orders of process of any court entered or issued with or without jurisdiction. If any property subject hereto is at any time attached, garnished, or levied upon under any court order or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case of any court order affecting such property or any part thereof, then and in any of such events BANK is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; if it complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

8. Written consent of BANK to act in the capacity of escrowee shall be manifested upon the duly authorized execution of this Agreement. The Administrator may, at any time, inspect the records of BANK, insofar as they relate to this Escrow Agreement. At the Administrator's discretion statements indicating status of the escrow shall be furnished by BANK to the Administrator. An executed duplicate original of this Agreement shall be filed with the Administrator at Illinois Attorney General, Franchise Division, 500 South Second Street, Springfield, Illinois 62706.

9. BANK shall be paid by Franchisor for any expenses incurred by it and reasonable compensation for its services hereunder. Funds held by BANK pursuant to this Agreement shall not be subject to any liens or charges by BANK.

10. If BANK believes it to be reasonably necessary to consult with counsel

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concerning any of its duties in connection with this Agreement, or in the event BANK retains counsel upon becoming involved in litigation on account of any deposit or of this Agreement, Franchisor shall reimburse BANK for and indemnify and hold BANK harmless against any and all costs, attorney's fees, charges, disbursements and expenses in connection with such consultation or litigation.

11. Franchisor unconditionally guarantees that, in the event BANK misapplies, dissipates, converts or is otherwise responsible for a deficiency in the funds deposited in the Escrow Account through the exercise of less than a fiduciary standard of care, Franchisor shall reimburse each and every franchisee to the extent of such deficiency if such amounts deposited are required to be returned to such franchisee under paragraph 6(a) through (c) hereof.

12. Franchisor shall give each franchisee a copy of this Agreement prior to collecting any moneys from such franchisee.

13. BANK's duties as escrowee shall terminate upon final distribution of all moneys received under this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed, the parties intending to be legally bound hereby.

ATTEST:

BANK

Its Secretary _____

By: _____

Its _____

FRANCHISOR

By: _____

Its _____

(Source: Amended at 23 Ill. Reg. 11561, effective
SEP - 7 1999)

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Section 200. ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds

_____) SS
_____) SS

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR OF THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release from escrow the sum of \$ _____, plus accrued interest representing the franchise fee paid by _____, January-17--1996 on the _____ day of _____, 19_____.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

Franchisor _____

By: _____ Name and Title _____

Escrowee Bank _____

Address of Bank _____

Printed Name of Franchisee _____

Phone Number of Bank _____

Address of Franchisee _____

Subscribed and sworn to before me
this _____ day of _____, 19_____.

(Source: Amended at 23 Ill. Reg. 11561, effective
SEP - 7 1999)

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Section 200. ILLUSTRATION C Franchisee's Petition For Release of Escrowed Funds

_____) SS
_____) SS

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisee hereby requests the Administrator to authorize release from escrow the sum of \$ _____, plus accrued interest representing the franchise fee paid by me on the _____ day of _____, 19____.

The undersigned franchisee hereby represents that the franchisor has not fulfilled the initial obligations owed to me under the franchise and other agreements and that I have not commenced doing business.

Franchisee Signature_____
Printed Name of Franchisee_____
Address of Franchisee

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public

(Source: Amended at 23 Ill. Reg. 11561, effective SEP - 7 1999)

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Section 200. APPENDIX D Guaranty Forms

Section 200. ILLUSTRATION A Guaranty of Performance

For value received, _____ (name of guarantor), located at _____ (address), absolutely and unconditionally guarantees the performance by _____ (name of franchisor), of all obligations under the Illinois Franchise Disclosure Act and Rules, and of all of the obligations of franchisor to furnish goods and/or services necessary to establish and open the business of franchisees to whom franchises are granted by franchisor pursuant to the registration of such franchises in the State of _____ and the terms and conditions of its franchise and other agreements entered into after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time. This guaranty shall continue in force until all such obligations of franchisor shall have been satisfied or until such liability of franchisor to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against franchisor remains outstanding. Notice of acceptance is waived. Notice of default on the part of franchisor is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guaranty at _____, this _____ day of _____, 19____.

ATTEST:

Guarantor

By _____

Title

(Source: Amended at 23 Ill. Reg. 11561, effective SEP - 7 1999)

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Section 200. ILLUSTRATION C Secretary's Certificate

The undersigned hereby certifies that the undersigned is the Secretary of (name of guarantor) a corporation organized and existing under the laws of the State of _____, that the foregoing is a true and correct copy of the resolution duly adopted at a meeting of the Board of Directors of said corporation held on the _____ day of _____, 19____, at which meeting a quorum was at all times present and acting; that the passage of said resolution was in all respects legal; and that said resolution is in full force and effect.

Dated this _____ day of _____, 19____.

Secretary

(Corporate Seal)

(Source: Amended at 23 Ill. Reg. 01561 effective
SEP - 7 1999)

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Section 200. APPENDIX E Surety Bond

We, _____ (name of franchisor), a corporation, with principal offices at _____ (address of franchisor), as principal, and _____ (name of surety company), a surety company with principal offices located at _____ (address of Surety), incorporated under the laws of the State of _____ and authorized to conduct business in the State of Illinois, as Surety, are indebted to the Administrator, Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706, Oblige in the sum of 1950 to be paid to the Oblige or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Administrator for registration of the offer of its franchisees under the Illinois Franchise Disclosure Act and is required pursuant to said law to provide the Administrator with a Surety Bond.

WHEREAS, the Principal proposes to offer in Illinois proposed registration under the Illinois Franchise Disclosure Act; and WHEREAS, the Oblige intends to assign this bond to the respective purchaser(s) of the aforementioned franchise(s) upon sale of the aforementioned franchise(s) to said purchaser(s).

The conditions of this bond are that if the Principal, its agent or employees shall:

1. Comply with the Illinois Franchise Disclosure Act and all rules and orders promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the violation of the Illinois Franchise Disclosure Act or any rules or orders promulgated thereunder or any acts, rules or orders amendatory thereof and/or supplementary thereto, or hereafter enacted or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made in the light of the circumstances under which such statement was made, not misleading, including, but not limited to, the failure to disclose, as required by Illinois Franchise Disclosure Act and the rules and regulations promulgated thereunder, the true financial condition of franchisor; and
3. Fully completes its obligations under the Franchise Agreement and all Related Agreements to provide real estate, improvements, equipment, inventory, training and other items included in the franchise offering, then this obligation shall be void; otherwise this obligation will remain in full force and effect. This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full year after the date of execution of this document.

In the event that any action or proceeding is initiated with respect to

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this bond, the parties agree that the venue thereof shall be the state or province in which the offer or sale of the franchise occurred.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at _____ day of _____, 19____.

Principal _____

Surety _____

(Source: Amended at 23 Ill. Reg. 11561, effective SEP -7 1999)

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Section 200.APPENDIX F Certificate of Deposit Forms

Section 200.ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit

_____) SS
_____) _____

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release of the Certificate of Deposit in the name of the Administrator in the sum of \$16950, plus accrued interest representing the franchise fee paid by _____ January-17-1996-on the _____ day of _____, 19____.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

In furtherance of this request, the undersigned franchisor submits the franchisee's statement indicating the franchisee has no objection to this request. By this statement the franchisee has not waived any rights which he may have against the undersigned franchisor.

Franchisor _____

By: _____ Name and Title _____

Subscribe and sworn to before me
this _____ day of _____,
19____.

Printed Name of Franchisee _____

Notary Public _____

Address of Franchisee _____

(Source: Amended at 23 Ill. Reg. 11561, effective
SEP -7 1999)

ILLINOIS FARM DEVELOPMENT AUTHORITY
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Farm Development Authority

2) Code Citation: 8 Ill. Adm. Code 1400

3) Section Numbers: Adopted Action:
1400.145 New

4) Statutory Authority: 20 ILCS 3605/7

5) Effective Date of Amendments: September 3, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: April 16, 1999, 23 Ill. Reg. 4345

10) Has JCAR issued a statement of objection to these amendments? No

11) Differences Between Proposed and Final Version: Minor grammar and style changes made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect?
Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: The changes are to incorporate Public Acts 91-0022 and 91-0281.

16) Information and questions regarding this adopted amendment shall be directed to:

Laura A. Lanterman, C.P.A. 217/782-5792
Chief Financial Officer
Illinois Farm Development Authority
427 East Monroe Street, Suite 201
Springfield, Illinois 62701

The full text of the adopted amendments begins on the next page:

ILLINOIS REGISTER
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENTS

Section 200. ILLUSTRATION B Franchisee's Petition for Release of Certificate of Deposit

_____) SS
_____) _____
_____) _____

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisee hereby requests the Administrator to authorize the release of the Certificate of Deposit issued in the name of the Administrator in the sum of \$ _____, plus accrued interest representing the franchisee fee paid by me on the _____ day of _____, 19____.

The undersigned franchisee hereby represents that the franchisor has not fulfilled the initial obligations owed to me under the franchise and other agreements and that I have not has commenced doing business.

In furtherance of this request, the undersigned franchisee submits the franchisee's statement indicating that it has no objection to this request.

Signature _____

Printed Name of Franchisee _____

Address of Franchisee _____

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public _____

(Source: Amended, 23 Ill. Reg. 11561 - effective 8-7-1999)

ILLINOIS FARM DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER VII: ILLINOIS FARM DEVELOPMENT AUTHORITYPART 1400
ILLINOIS FARM DEVELOPMENT AUTHORITY

Section

- 1400.10 Definitions
- 1400.20 Composition, Appointment and Terms of Office
- 1400.30 Officers
- 1400.40 Executive Director
- 1400.50 Meetings
- 1400.60 Quorum
- 1400.70 Reimbursement
- 1400.80 Rules of Order
- 1400.90 Records and Reports
- 1400.100 Public Participation
- 1400.110 Rulemaking Procedures
- 1400.120 Purchasing Rules and Regulations
- 1400.130 Rules and Guidelines Applicable to All Bond Programs
- 1400.140 Bond Programs and Rules Applicable to Each
- 1400.145 Rules and Guidelines Applicable to the Interest Buy Down Program (Repeated)
- 1400.146 Rules and Guidelines Applicable to the Young Farmer Guarantee Program
- 1400.147 Rules and Guidelines Applicable to the State Guarantee Program for Restructuring Agricultural Debt
- 1400.148 Rules and Guidelines Applicable to the Specialized Livestock Guarantee Program
- 1400.149 Rules and Guidelines Applicable to the State Guarantee Program for Agri-Industries
- 1400.150 Seal
- 1400.160 Principal Office
- 1400.170 Revision
- 1400.180 Construction; Waiver; Severability

ILLUSTRATION A OMIP Regions (Repeated)

AUTHORITY: Implementing and authorized by the Illinois Farm Development Act [20 ILCS 3605] and by the Farm Credit Allocation Act [20 ILCS 3610].

SOURCE: Emergency rules adopted at 6 Ill. Reg. 9340, effective July 15, 1982, for a maximum of 150 days; adopted at 7 Ill. Reg. 242, effective December 22, 1982; emergency amendment at 8 Ill. Reg. 363, effective December 27, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 8489, effective May 31, 1984; emergency amendment at 9 Ill. Reg. 8186, effective May 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 15493, effective October 1, 1985; emergency amendment at 9 Ill. Reg. 17879, effective October 31, 1985, for a maximum of 150 days; emergency expired March 21, 1986; emergency amendment at 10 Ill. Reg.

ILLINOIS FARM DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

2059, effective January 10, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 4599, effective February 28, 1986, for a maximum of 150 days; emergency expired July 29, 1986; amended at 10 Ill. Reg. 11001, effective June 9, 1986; amended at 11 Ill. Reg. 3862, effective February 27, 1987; amended at 11 Ill. Reg. 3894, effective May 12, 1987; amended at 12 Ill. Reg. 11219, effective June 20, 1988; amended at 13 Ill. Reg. 2440, effective February 10, 1989; amended at 13 Ill. Reg. 14376, effective August 30, 1989; amended at 17 Ill. Reg. 3618, effective March 5, 1993; amended at 17 Ill. Reg. 15808, effective September 10, 1993; amended at 19 Ill. Reg. 7582, effective May 26, 1995; amended at 22 Ill. Reg. 3467, effective January 30, 1998; amended at 23 Ill. Reg. 2866, effective February 26, 1999; emergency amendment at 23 Ill. Reg. 4464, effective April 6, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11703, effective SEP - 3 1999.

Section 1400.145 Rules and Guidelines Applicable to the Interest Buy Down Program (Repeated)

a) General Description of Program.

1) The Interest Buy Down Program (IBD), which is used in conjunction with the State Guarantee Program for Restructuring Agricultural Debt (SGP), is designed to subsidize the interest cost on loans made to pork producers.

2) The State shall pay a portion of the interest on qualifying loans under the SGP:

- A) The maximum principal amount on which the State will pay interest is \$100,000.
- B) The State will pay the interest calculated at a rate of 2.0% up to the maximum principal amount.
- C) Payments will be made to the Lender annually.
- D) Definitions applicable to the IBD.

"Applicant" means a hog farmer whose application for an Interest Buy Down in conjunction with a State Guarantee for Restructuring Agricultural Debt has been submitted to the Authority by a lender.

"Fund" means the General Revenue Fund, which will be used for Interest Buy Down payments.

"IBD" is a payment from the State of Illinois to the lender of a portion of the borrower's interest on a loan.

"Loan" is a loan made under the State Guarantee Program for Restructuring Agricultural Debt for which the State of Illinois is providing an Interest Buy Down.

c) Eligible Farmers. To qualify for participation in the IBD, the applicant must:

ILLINOIS FARM DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENTS

- 1) be a resident of Illinois;
 - 2) be a principal operator of a farm that produces hogs;
 - 3) derive at least 50% of annual gross income from farming;
 - 4) have a net worth of at least \$10,000;
 - 5) meet all other requirements of the State Guarantee Program for Restructuring Agricultural Debt as defined in Section 1400.147 of this Part.
- d) Eligible Lenders. To qualify for participation in the IFD, the lender must:
- 1) agree to fix the interest rate on the loan for at least five years;
 - 2) agree not to penalize Borrower on account of receipt of an IFD from the State after the applicable anniversary date of the loan.
- e) Limitations.
- 1) The IFD shall last for five years. However, depending on the collateral, the loan may have a maturity of more than five years.
 - 2) The IFD shall be allowed on a maximum of \$100,000 of the loan balance.
 - 3) The IFD shall be available until the earlier of June 30, 1999 or when \$50 million of loans have been approved.
- f) Application Procedures and Review.
- 1) Lenders shall apply for the Interest Buy Down in conjunction with an application for the State Guarantee for Restructuring Agricultural Debt on forms provided by the Authority and shall certify that the application and any other documents submitted are true and correct. Applications shall be processed by the Authority on a first come, first served basis, based upon the receipt of all completed application documents by the Authority.
 - 2) Review of applications and the approval process shall be in accordance with Section 1400.147 of this Part.
 - 3) Upon approval of an application and receipt of the documentation necessary to prepare closing documents for the loan, a closing documents package which includes the document to execute for the IFD, shall be prepared by the Authority and sent to the lender. Upon completion of all such forms and documents by the applicant, Lender and Authority and after satisfaction of all closing requirements for the loan, the Interest Buy Down will be in effect.
 - g) Payment of Interest Buy Down to Lender. After the Borrower makes his anniversary payment, the Lender shall notify the Authority of the amount due on the IFD. The Authority shall direct payment to the Lender from the Fund.

(Source: Amended at 23 Ill. Reg. **11703** - , effective
 3/1999)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Drinking Water Systems Code
- 2) Code Citation: 77 Ill. Adm. Code 900
- 3) Section Numbers: 900.20
900.45
Adopted Action:
Amendment
New
- 4) Statutory Authority: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].
- 5) Effective Date of Rules: September 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposed Rulemaking was Published in the Illinois Register: April 2, 1999 - 23 Ill. Reg. 3924
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No
- 11) Difference Between Proposal and Final Version:

Section 900.20(j) was revised at second notice to update references to rules of the Department entitled "Certification and Operation of Environmental Laboratories" (77 Ill. Adm. Code 465) and rules of the Illinois Environmental Protection Agency entitled "Accreditation of Laboratories for Drinking Water, Wastewater, and Hazardous Waste Analysis" (35 Ill. Adm. Code 186).

In addition, various typographical, grammatical and form changes were made in response to comments from the Joint Committee on Administrative Rules.
- 12) Have all the changes agreed upon by the Agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.
- 13) Will the rulemaking replace an emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments:

This rulemaking adds a new Section that will require all non-transient, non-community public water systems to be operated by personnel who have attended training approved by the Department and received certification issued by the Department after successful completion of the training. Certified operators will be required to be recertified every three years by attending a training session approved by the Department that addresses new technology and any changes to the Department's drinking water regulations.

The rulemaking also requires all new non-transient, non-community public water systems to provide the Department assurances that they have the capability of meeting all USEPA drinking water standards and that the system is able to produce an adequate quantity and quality of water to serve the needs of its users. Such assurances must be provided before a permit to construct a system will be issued by the Department.

The Department conducts this program jointly with the Illinois Environmental Protection Agency. The Department regulates non-community public water systems, and the Agency regulates community public water systems. The two agencies share in the federal grant to conduct the program. Both agencies have now adopted the new USEPA regulations as required to continue receiving primacy and receiving the federal grant.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Staff Attorney, Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
(rules@idph.state.il.us)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 1: WATER AND SEWAGE

PART 900
DRINKING WATER SYSTEMS CODE

Section	Public Water System Operator
900.10 Definitions	
900.15 Incorporated and Referenced Materials	
900.20 General Requirements	
900.30 Special Requirements	
900.40 Water System Design	
900.45 Non-Transient, Non-Community Certification	
900.50 Inorganic Chemicals (Repealed)	
900.60 Turbidity (Repealed)	
900.65 Organic Chemicals (Repealed)	
900.70 Microbiological (Repealed)	
900.80 Public Notification (Repealed)	
900.90 Record Maintenance and Reporting (Repealed)	
900.100 Variances and Exemptions (Repealed)	
TABLE A Sources of Pollution in Location to Wells and/or Finished Water Storage Facilities	
TABLE B Design Capacity for a Non-Community Public Water System	
TABLE C Pressure Factors	
TABLE D Coliform Sampling Frequency According to Population Served (Repealed)	
TABLE E Lead and Copper Sampling Frequency-Requirements for First Year of Sampling (Repealed)	
TABLE F Lead and Copper Sampling Frequency-Requirements After First Year of Sampling (Repealed)	
TABLE G Water Quality Sampling Requirements (Repealed)	
TABLE H Water Quality Sampling Requirements-Reduced Sampling (Repealed)	
TABLE I Table of Factors to be Used in Saturation Index Calculations (Repealed)	
EXHIBIT A Values of A Based Upon Total Solids (Repealed)	
EXHIBIT B Values of B Based Upon Water Temperature (Repealed)	
EXHIBIT C Values of C Based Upon Calcium Hardness Expressed as CaCO3 (Repealed)	
EXHIBIT D Values of D Based Upon Alkalinity Expressed as CaCO3 (Repealed)	

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].

SOURCE: Adopted at 6 Ill. Reg. 2215, effective February 3, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 3301, effective March 2, 1984; amended at 9 Ill. Reg. 9139, effective June 3, 1985; amended at 13

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 12578, effective August 1, 1989; amended at 14 Ill. Reg. 14844, effective September 1, 1990; amended at 17 Ill. Reg. 4388, effective March 23, 1993; amended at 19 Ill. Reg. 7217, effective May 31, 1995; emergency amendment at 20 Ill. Reg. 3968, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9997, effective July 22, 1996; amended at 23 Ill. Reg. 11707, effective SEP - 1 1999.

NOTE: In this Part, unless the content clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript numbers are denoted by brackets.

Section 900.20 General Requirements

- a) Coverage. This Part shall apply to all non-community public water systems.
- b) Exception. This Part shall not apply to a public water system which meets all of the following conditions:
 - 1) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities).
 - 2) Obtains all of its water from, but is not owned or operated by a public water system to which such regulations apply.
 - 3) Does not sell water to any person.
 - 4) Is not a carrier which conveys passengers in interstate commerce.
- c) Consecutive Systems. When a public water system supplies water to one or more other public water systems, the Department shall modify the monitoring requirements if one sampling point can be shown to be representative of the water supply and the supply can be shown to have a contamination free sampling history to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modification in monitoring shall be approved in writing by the Department.
- d) Permit to Construct. A permit to construct a non-community public water system must be obtained from the Department prior to construction. Where a water well is to be constructed, altered or extended, a permit fee, which is established in Section 920.130 of the Illinois Water Well Construction Code, shall be required for the water well.
- e) Permit to Alter or Extend. A permit for any major alteration of, or extension to, a non-community public water system must be obtained from the Department prior to construction.
- f) Plans. All applications for a permit to construct, alter or extend a non-community public water system must be accompanied by plans and specifications. The plans and specifications must indicate all sources of contamination, the layout and design of the system and all associated equipment which will indicate compliance with this part as stated in Section 900.40.
- g) Major Alterations or Extensions. Major alterations or extensions shall include, but not be limited to, the following:
 - 1) Alterations or extensions of the water supply system which require a permit to construct, alter or extend.
 - 2) Alterations or extensions of the water distribution system which require a permit to construct, alter or extend.
 - 3) Alterations or extensions of the water treatment system which require a permit to construct, alter or extend.
 - 4) Alterations or extensions of the water storage system which require a permit to construct, alter or extend.
 - 5) Alterations or extensions of the water collection system which require a permit to construct, alter or extend.
 - 6) Alterations or extensions of the water disposal system which require a permit to construct, alter or extend.
 - 7) Alterations or extensions of the water supply system which require a permit to construct, alter or extend.
 - 8) Alterations or extensions of the water distribution system which require a permit to construct, alter or extend.
 - 9) Alterations or extensions of the water treatment system which require a permit to construct, alter or extend.
 - 10) Alterations or extensions of the water storage system which require a permit to construct, alter or extend.
 - 11) Alterations or extensions of the water collection system which require a permit to construct, alter or extend.
 - 12) Alterations or extensions of the water disposal system which require a permit to construct, alter or extend.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Change in source of water supply.
- 2) Construction of additional sources of water supply.
- 3) Provision of any new treatment to the system.
- 4) Changes in system capacity.
- 5) Increase in the water well depth.
- h) Notification of Completion. Upon completion of any construction for which a permit has been issued, the owner shall notify the Department.
- i) System Disinfection. All components of new non-community public water system construction, alteration, or expansion shall be disinfected with a strong chlorine solution; and satisfactory bacteriological sample results, in compliance with this Part, shall be obtained prior to placing the components into service.
- j) Certified Laboratory. All samples requiring laboratory analysis shall be analyzed only by a laboratory which has been certified for the analysis in question, except that turbidity analyses may be conducted by anyone approved by the Department. The certification shall be made by the Department, in accordance with Certification and Operation of Environmental Laboratories (77 Ill. Adm. Code 465), or the Illinois Environmental Protection Agency, in accordance with Accreditation of Laboratories for Drinking Water, wastewater, and Hazardous Waste Analysis Certification and Operation of Environmental Laboratories (35 Ill. Adm. Code 186.48f). The results from any analysis not conducted in accordance with the above shall not be considered valid for purposes of this Part.
- k) The following State regulations shall apply to all non-community public water supplies:
 - 1) 35 Ill. Adm. Code 607, Operation and Recordkeeping.
 - 2) 35 Ill. Adm. Code 611, Primary Drinking Water Standards.

(Source: Amended at 23 Ill. Reg. 11707, effective SEP - 1 1999.)

Section 900.45 Non-Transient, Non-Community Public Water System Operator Certification

- a) All non-transient, non-community public water systems shall be directly supervised and operated by personnel who:
 - 1) are currently the operator in responsible charge of the non-transient, non-community public water system and whose identity has been submitted to the Department by the non-transient, non-community public water supply system by January 1, 2000; or
 - 2) have been certified by the Department; or
 - 3) have been certified as a public water supply operator by the Illinois Environmental Protection Agency.
- b) Operator Certification.
 - 1) All operators must be certified by January 1, 2003. In order to be certified by the Department, an operator must provide evidence

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

of successful completion of a water operator's course that has been approved by the Department. Successful completion shall mean passing a written examination given at the end of the training. Evidence of completion shall be a letter from the school or approved training organization conducting the course. Upon receipt of this documentation, the Department will provide a certificate to the operator.

2) All courses and training organizations must be approved by the Department. The course must consist of at least 12 hours of classroom instruction addressing disinfection and measurement of disinfectant residual, treatment, sample collection, water wells, Department regulations and small water system operation. The examination administered at the conclusion of the training course will be based on job performance.

3) Operator training courses must be updated and approved annually by the Department to ensure that all current regulations are covered in the training course.

4) Applicants for the training course must provide to the training organization evidence of having a high school diploma or the equivalent or must be currently employed by a non-transient, non-community public water system.

5) Certified operators shall be recertified every three years. In order to be recertified, the operator shall attend a recertification training session approved by the Department and provide proof of attendance from the organization conducting the course. The recertification training shall provide information on new USEPA drinking water regulations, new technology, and water treatment topics that will aid the operator in the operation of the supply.

6) All non-transient, non-community public water systems shall provide the Department with the name, address and phone numbers of the certified individual operating the supply. The Department shall be notified in writing within 30 days after a different person becomes responsible for operation of the supply. This information shall be supplied on forms provided by the Department.

c) Financial, Managerial, and Technical Requirements for Non-Transient, Non-Community Public Water Supply Systems. All applications for a permit to construct a non-transient, non-community public water system that will initiate operation after September 20, 1999 shall contain information relative to its financial, managerial and technical capability to meet all primary drinking water requirements contained in this Part. Applications shall be on forms provided by the Department and shall include the following:

1) Details of well construction and location, water consumption, pumping capacity, location and type of any known potential source or route of contamination, and the types of chemicals stored or used within a 1000 foot radius of the well or surface supply

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

intake. The system shall document the steps to be taken to protect the water supply from contamination.

2) Name, address and phone number of the owner of, and of the individual responsible for the operation and sampling of, the water supply, and, after January 1, 2002, documentation showing that the operator is certified by the Department. If, at the time of application, a certified operator is not available, the owner must provide the name, address, and phone number of the individual who will be seeking certification.

3) A contingency plan. The contingency plan shall indicate the name of the alternate water supply and describe the method for transporting water. The alternate supply shall meet all drinking water quality standards and treatment techniques contained in this Part. The plan shall describe how water from an alternate water supply will be provided if any of the following conditions occur:

A) water service is interrupted due to broken pipes, pump failure or lack of water from the well or surface supply;

B) water quality fails to meet any drinking water maximum contaminant level or treatment technique in this Part.

4) Information indicating that the facility is aware of monitoring requirements and has financial capability to maintain cost of monitoring and system maintenance.

5) The name and certification number of the laboratory that will be used for required chemical analyses, along with an estimate of the cost of performing these analyses.

d) Causes of Suspension or Revocation of Operator Certification. The Department may suspend, revoke, or refuse to issue a certification to a water supply operator for any one of the following:

1) The practice of fraud or deceit in obtaining or attempting to obtain a certification;

2) Gross negligence, or incompetency, or misconduct in the operation of a water supply;

3) Falsification or willful failure to maintain or willful failure to submit records and reports required by this Part;

4) Failure to comply with any of the rules pertaining to the operation of a water supply contained in this Part.

e) Suspension or Revocation of Operator Certification. The Department shall, in any Application for Operator Certification. The Department shall, in any proceeding to suspend, revoke or refuse to issue a certification, first serve on the certified operator or applicant a written notice specifying the manner in which the operator or applicant has failed to comply with this Part and the Act. Such person shall be granted the right to a hearing before the Department and will receive a written notice of opportunity for an administrative hearing. To be eligible for a hearing, the certified operator or applicant shall submit a written request for a hearing to the Department within 10 days after receipt of the written notice of opportunity for an administrative

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

hearing from the Department. Failure to submit a written request for a hearing will constitute a waiver of the person's right to an administrative hearing. All hearings shall be conducted in accordance with the Department's "Rules of Practice and Procedure in Administrative Hearings" (77 Ill. Adm. Code 100).

(Source: Added at 23 Ill. Reg. 11707 effective
SEP-1-1999)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) Section Number: Emergency Action:
160.70 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/12-13) and Public Law 104-193
- 5) Effective Date: September 1, 1999
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date filed with the Index Department: September 1, 1999
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: These emergency amendments are being filed pursuant to federal law for the enforcement and collection of child support in intrastate and interstate cases. This emergency rulemaking amends child support provisions regarding the use of lien and levy on real and personal property, including accounts in financial institutions, to collect child support. These changes streamline the procedure for lien and levy while maintaining due process, and add a procedure for determining an unobligated joint owner's share of the personal property being levied. Immediate implementation of these amendments is necessary to protect the interests of child support recipients and the rights of joint owners of personal property.

- 10) Complete Description of the Subjects and Issues Involved: These emergency amendments to the Department's administrative rules for child support enforcement provide changes regarding the use of lien and levy on real and personal property, including accounts in financial institutions, to collect child support. The use of liens and financial institution data matches will aid in the enforcement and collection of child support in intrastate and interstate cases. The Department will use Multi-State Financial Institution Data Match material from the federal government to obtain matches of Illinois child support debtors with accounts in multi-state financial institutions.

The use of liens and financial institution data matches is mandated under federal law (Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193) for purposes of child support collection. The data match material will be obtained from the federal

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

government via the Multi-State Financial Institution Data Match. Additionally, the Department will be participating in the Automated Enforcement of Interstate cases (AET) pilot project at the invitation of the federal government. These emergency amendments to the Department's rules on child support enforcement are necessary to implement the lien and levy enhancements and for participation in the AET pilot project.

These emergency amendments, along with companion amendments to the Department's administrative hearing rules at 89 Ill. Adm. Code 104, will streamline the procedure for lien and levy while maintaining due process, and add a specific procedure for determining an unobligated joint owner's share of the personal property being levied.

The approximate costs for implementation of the necessary system programming changes associated with these changes are expected to be \$550,000. Only insignificant staffing expenditures are anticipated because current staff of the Division of Child Support Enforcement will perform the lien and levy processes. Although the child support enforcement program will experience increased collections as a result of these processes, the amount of such increased collections cannot be estimated at this time.

- 11) Are there any other amendments pending on this Part: Yes

Sections	Proposed Action	Illinois Register Citation
160.30	Amendment	December 4, 1998 (22 Ill. Reg. 20755)
160.62	Repeal	December 4, 1998 (22 Ill. Reg. 20755)

- 12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any state mandates affecting units of local government.

- 13) Information and questions regarding this amendment shall be directed to:

Name: Joanne Jones
Address: Office of the General Counsel - Rules
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	Incorporation By Reference
160.1	Definitions
160.5	Child Support Enforcement Program
160.10	Administrative Accountability Process
160.12	Application Processing Fee for IV-D Non-TANF Cases
160.15	Assignment of Rights to Support
160.20	Recoupment
160.25	

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section	Cooperation With Support Enforcement Program
160.30	Good Cause for Failure to Cooperate with Support Enforcement
160.35	Proof of Good Cause For Failure to Cooperate With Support Enforcement
160.40	Suspension of Child Support Enforcement Upon Finding of Good Cause
160.45	

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section	Establishment of Support Obligations
160.60	Uncontested and Contested Administrative Paternity and Support
160.61	Cooperation with Paternity Establishment and Continued Eligibility
160.62	Demonstration Program
160.65	Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section	Enforcement of Support Orders
160.70	Credit for Payments Made Directly to the Title IV-D Client
160.71	Withholding of Income to Secure Payment of Support
160.75	Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies
160.80	Amnesty - 20% Charge
160.85	Diligent Efforts to Serve Process
160.88	State Case Registry

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENTS

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section 160.100 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section 160.110 Distribution of Child Support for TANF Recipients
 160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services
 160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
 160.130 Distribution of Intercepted Federal Income Tax Refunds
 160.132 Distribution of Child Support for Non-TANF Clients
 160.134 Distribution of Child Support for Interstate Cases
 160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
 160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section 160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section 160.150 Department Review of Distribution of Child Support for TANF Recipients
 160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13

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111. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 999, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12054, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1995; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days.

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.70 Enforcement of Support Orders

EMERGENCY

- a) Definitions
 The definitions contained in Section 160.60(a) are incorporated herein by reference.
- b) Income Withholding
 Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- c) Federal and State Income Tax Refunds and Other Payments
 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of Federal and State income tax refunds and other Federal and State payments (see

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Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.) due such relatives:

- 2) The Department shall submit past-due support amounts to:
 - A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
 - i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150 which has been in arrears for 3 months or longer; and
 - ii) in IV-D non-TANF cases, past-due support owed to or for a minor child in an amount not less than \$500.
 - B) the Comptroller to Intercept State income tax refunds and other State payments as follows:
 - i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$150, whichever is less;
 - ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and
 - iii) in cases in which the responsible relative who owes this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of such circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for intercept;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
 - i) a redetermination by the Department or, after such redetermination,
 - ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
 - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the

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time of intercept regarding the steps to take to protect the share of the refund which may be payable to that spouse, in the case of a joint federal income tax return.

- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.
- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by requesting:
 - A) a hearing by the Department within 30 days from the date of mailing of the notice; or
 - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept of other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within 10 days of the responsible relative's request. The Department shall be bound by the decision of the state with the order.
- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 8) The Department shall notify:
 - A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
 - B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
 - C) the Comptroller of any deletion of an amount submitted for State income tax refund or other payment intercept or any significant decrease in the amount; and
 - D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.
- 9) The Department shall:
 - A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
 - B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to

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be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his; except that the Comptroller shall apportion such refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.

- 10) The Department shall as promptly as possible apply collections it receives as a result of intercept under this subsection only against the past-due support amount specified in the advance notice provided the responsible relative pursuant to subsection (c)(3) above and shall promptly apply:

- A) federal income tax refunds first to satisfy any IV-D TANF or AFPC or IV-D foster care assigned past-due support; and
- B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.

- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:

- A) amounts intercepted under this subsection (c) will be applied in accordance with Section 160.130;
- B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

- d) Unemployment Insurance Benefits
- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one month support obligation.

- 2) The Department shall take the following action:

- A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
- B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
- C) establish the amount to be deducted by data entry to DES's computer file, which amount shall be the lesser of:
 - i) the amount of the income withholding order; or
 - ii) fifty percent of the Unemployment Insurance Benefit.
- D) receive amounts deducted direct from DES.
- E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
- F) post each collection to the Department's payment record.

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- G) apply each collection to the current support obligation, then to past-due obligations.
- H) provide a redetermination within 180 days from the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.

- 3) The Department of Employment Security shall take the following action:

- A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.

- B) pay all amounts deducted direct to the Department.

- e) Contempt of Court and Other Legal Proceedings

- 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one month support obligation, except as set forth in subsection (e)(2) below.

- 2) Contempt proceedings shall not be used in the following instances:

- A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
 - i) receiving public assistance;
 - ii) mentally or physically disabled;
 - iii) incarcerated;
 - iv) out-of-the-country;
 - v) deceased; or
 - vi) otherwise situated making such action unproductive.

- B) other legal or administrative remedies are more appropriate under the circumstances.

- 3) Contempt and other legal proceedings shall be used to:

- A) establish the amount of past-due support;

- B) obtain a judgment for purposes of:
 - i) imposition of a lien against real estate,
 - ii) levy upon real estate and personal property, or
 - iii) registration in another state;

- C) secure an order for lump sum or periodic payment of the past-due support or judgment;

- D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;

- E) obtain full or partial payment of past due support through incarceration;

- F) ascertain the responsible relative's source and amount of income or location and value of assets;

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- G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
- H) secure other enforcement relief; and
- I) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].
- 5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- f) Liens Against Real Estate and Personal Property - Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XIII].
 - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
 - A) the past-due amount is at least \$10,000; and
 - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.
 - 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy, or memorandum of judgment in the county wherein the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XIII]).
 - 4) A judgment shall be enforced by levy upon the real estate and

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- personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XIII]) when the relative has a known equity which is not less than \$10,000 in excess of any statutory exemption.
- 9) Liens Against Real Estate and Personal Property - Administrative Enforcement of Order for Support
- 1) Liens against real estate
 - A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
 - i) the amount of past-due support is at least \$10,000; and
 - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
 - B) The Department shall prepare a Notice of Lien or Levy that shall be provided to served-upon the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
 - i) the name and address of the responsible relative;
 - ii) a legal description of the real estate to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
 - C) A written request for hearing redetermination made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
 - D) The Department shall provide the responsible relative with a notice--of--the--results--of--the--redetermination--and--of--the--right--to--contest--such--results--by--making--a--written--request--for--a--hearing--by--the--Department--within--30--days--after--the--date--of--mailing--of--the--notice--
 A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from taking action against the real property if action against the real property had been
 - 2)
 - A) The Department shall prepare a Notice of Lien or Levy that shall be provided to served-upon the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
 - i) the name and address of the responsible relative;
 - ii) a legal description of the real estate to be levied;
 - iii) the amount of past-due support to be satisfied by the levy;
 - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
 - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
 - C) A written request for hearing redetermination made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).
 - D) The Department shall provide the responsible relative with a notice--of--the--results--of--the--redetermination--and--of--the--right--to--contest--such--results--by--making--a--written--request--for--a--hearing--by--the--Department--within--30--days--after--the--date--of--mailing--of--the--notice--
 A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from taking action against the real property if action against the real property had been

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~~stayed pursuant to subsection (g)(1)(c) of this Section. The lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).~~

- ¶ The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

§(b) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

§(h) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$10,000 in excess of any statutory exemption.

2) Liens against personal property

A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:

- i) the amount of past-due support is at least \$1,000;
- ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
- iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ICs 5/10-24], the account is valued in the amount of at least \$300.

B) The Department shall prepare a Notice of Lien or Levy that shall be provided to served-upon the responsible relative and either the financial institution in which the account of the responsible relative is located or the sheriff of the county in which the personal property of the responsible relative is located. The notice shall inform the responsible relative and the financial institution or the sheriff of the following:

- i) the name and address of the responsible relative;
- ii) a description of the account or personal property to be levied;
- iii) the amount of past-due support to be satisfied by the levy;
- iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
- v) the right of the responsible relative to prevent levy upon assets against the personal property, including accounts, by payment of the past-due support amount in full or by consenting to contest the determination that past-due support is owed or the amount of

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past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and ~~redetermination by the Department~~

- vi) the right of a joint owner to prevent levy upon the personal property, including accounts, by requesting within 15 days after the date of mailing of the Notice of Lien or Levy a hearing by the Department to determine his or her share of the account or other personal property to be levied.

C) In addition to the information to be included in the Notice of Lien or Levy under subsection (g)(2)(B), the Notice of Lien or Levy provided to served-upon a financial institution shall:

- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ICs 5/10-24];
- ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit such assets within five days after being served with a Notice to Surrender Assets by the Department;
- iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any such fee be deducted from the account before remitting any assets from the account to the Department; and
- iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien.

D) The form for the response to Notice of Lien or Levy provided for under subsection (g)(2)(C)(iv) of this Section shall include provisions for the financial institution to complete stating:

- i) the amount of assets in the responsible relative's account;
- ii) the amount of the fee to be deducted from the account;
- iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution; and
- iv) the amount of assets surrendered and remitted to the Department.

E) A written request for a hearing ~~redetermination~~ made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from ~~levying upon~~ ~~taking action~~

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against the personal property, although the lien shall remain in effect during the pendency of any protest--or appeal taken pursuant to this subsection (g).

- F) ~~the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.~~
- G) ~~A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from taking action against the personal property, if action against the personal property had been stayed pursuant to subsection (f)(2)(f) of this Section. The lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (g).~~

H) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.

G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.

H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share.

I) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.

J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions such data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (g).

h) Security, Bond or Other Guarantee of Payment

- 1) Except as provided in subsections (h)(2) and (3) below, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ICS 5/10-17.4].

2) In cases in which the support obligation is established through

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the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment.

Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.

- 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

i) Past-Due Support Information to Consumer Reporting Agencies

- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (c)(2)(A) of this Section:

- A) the name, last known address and Social Security Number of the responsible relative; and
- B) the terms and amount of past-due support which has accumulated under the order for support.

2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:

- A) the IV-D case name and identification number;
- B) the past-due support amount which will be reported;
- C) the date past-due support will be reported; and
- D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.

3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days from the date of mailing of the notice.

4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.

5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

- A) a request for
 - i) a redetermination, or
 - ii) a hearing contesting the determination that past-due support is owed.

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- support is owed or the amount of past-due support; or
- B) payment in full of the amount of the past-due support stated in the
 - i) advance notice, or
 - ii) notice of redetermination or hearing results.
 - 6) The Department shall advise consumer reporting agencies of changes in the amount of the past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
 - 3) High-Volume Automated Administrative Enforcement in Interstate Cases
 - 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.
 - 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize such assets through levy or other appropriate processes.
 - 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
 - A) include such information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.
 - B) constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
 - 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of such other state.
 - 5) The Department shall maintain records of:
 - A) the number of such requests for assistance received by the Department.
 - B) The number of cases for the which the Department collected support in response to such a request and the actual amount(s) of such support collected.
 - k) Past-Due Support Certified to the Illinois Department of Revenue or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
 - 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Public Aid Code [305 ILCS 5/10-17.9]) or

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- to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.
- 2) The Department may submit past-due support amounts to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
 - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
 - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;
 - C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
 - D) the responsible relative is not deceased.
 - 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
 - A) the IV-D case name and identification number;
 - B) the past-due support amount which will be submitted for collection;
 - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
 - D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.
 - 4) Factors for a satisfactory repayment plan will include, but are not limited to:
 - A) the amount of past-due support owed;
 - B) the amount to be paid toward the past-due amount;
 - C) the amount of current child support obligations; and
 - D) the individual's ability to pay.
 - 5) The Department shall provide the Illinois Department of Revenue, or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:
 - A) name;
 - B) social security number;
 - C) IV-D identification number; and
 - D) the past-due support amount.
 - 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state.

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- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest such results by making a written request for a hearing by the Department within 30 days after the date of mailing of the notice.
- 8) A written request for hearing made within 30 days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.
- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
- apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support obligation; or
 - if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.
- 1) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
- The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$5,000:
 - the name, last known address and Social Security Number of the responsible relative; and
 - the terms and amount of past-due support which has accumulated under the order for support.
 - The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
 - the IV-D case name and identification number;
 - the past-due support amount which will be certified;
 - the date past-due support will be certified; and
 - the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of

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- past-due support by requesting a redetermination by the Department.
- The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
 - The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
 - The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
 - a request for
 - a redetermination, or
 - a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
 - payment in full of the amount of the past-due support stated in the
 - advance notice, or
 - notice of redetermination or hearing results.
 - The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
 - Other Remedies

The Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 01315-, effective September 1, 1999, for a maximum of 150 days)

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- 1) **Heading of the Part:** Practice in Administrative Hearings
- 2) **Code Citation:** 89 Ill. Adm. Code 104
- 3) **Section Numbers:**
 Emergency Action:
 104.100 Amendment
 104.102 Amendment
 104.103 Amendment
 104.110 New Section
- 4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Law 104-193
- 5) **Effective Date:** September 1, 1999
- 6) **If this emergency amendment is to expire before the end of the 180-day period, please specify the date on which it is to expire:** Not Applicable
- 7) **Date filed with the Index Department:** September 1, 1999
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) **Reason for Emergency:** These emergency amendments are being filed pursuant to federal law for the enforcement and collection of child support in intrastate and interstate cases and to implement administrative hearing provisions. This emergency rulemaking amends hearing provisions including petitions by joint owners to contest the use of lien and levy on personal property, including accounts in financial institutions, to collect child support. These changes will enhance the lien and levy process by adding a procedure for determining an unobligated joint owner's share of the personal property being levied. Immediate implementation of these amendments is necessary to protect the interests of child support recipients and the rights of joint owners of personal property.

10) **Complete Description of the Subjects and Issues Involved:** These emergency amendments to the Department's rules on administrative hearings provide changes regarding the use of lien and levy on personal property, including accounts in financial institutions, to collect child support. The use of liens and financial institution data matches will aid in the enforcement and collection of child support in intrastate and interstate cases. The Department will use Multi-State Financial Institution Data Match material from the federal government to obtain matches of Illinois child support debtors with accounts in multi-state financial institutions.

The use of liens and financial institution data matches is mandated under federal law (Personal Responsibility and Work Opportunity Reconciliation

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Act of 1996, Public Law 104-193) for purposes of child support collection. Data match material will be obtained from the federal government via the Multi-State Financial Institution Data Match. Additionally, the Department will be participating in the Automated Enforcement of Interstate cases (AEI) pilot project at the invitation of the federal government. These emergency amendments to the Department's rules on administrative hearings and child support enforcement are necessary to implement the lien and levy enhancements and for participation in the AEI pilot project.

These emergency amendments, along with companion amendments to the Department's rules on child support enforcement at 89 Ill. Adm. Code 160, will streamline the procedure for lien and levy while maintaining due process, and add a specific procedure for determining an unobligated joint owner's share of the property being levied.

These emergency amendments concerning administrative hearings are not expected to result in any budgetary changes. However, for the related amendments to Part 160 on child support enforcement, the approximate costs for implementation of the necessary system programming changes are expected to be \$950,000. Only insignificant staffing expenditures are anticipated because current staff of the Division of Child Support Enforcement will perform the lien and levy processes. Although the child support enforcement program will experience increased collections as a result of these processes, the amount of such increased collections cannot be estimated at this time.

- 11) **Are there any other amendments pending on this Part?** No
- 12) **Statement of Statewide Policy Objectives:** These emergency amendments neither create nor expand any state mandates affecting units of local government.
- 13) **Information and questions regarding this amendment shall be directed to:**

Joanne Jones
 Office of the General Counsel - Rules
 Illinois Department of Public Aid
 201 South Grand Avenue East, Third Floor
 Springfield, Illinois 62763-0002
 Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page:

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 69: SOCIAL SERVICES

CHAPTER 1: DEPARTMENT OF PUBLIC AID

SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEAL

Section

104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Hearing
104.12	Notice of Hearing
104.20	Conduct of Hearings
104.21	Representation
104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
104.30	Subpoenas
104.35	Amendment of Appeal
104.40	Consolidation of Appeals
104.45	Postponement or Continuation of Hearings
104.50	Withdrawal of Appeal
104.55	Closing of Hearing Record
104.60	Dismissal of Appeal
104.70	Final Administrative Decision
104.80	Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

104.100	Support Order, Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments
104.104	Conduct of Other Hearings
104.105	Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
104.110	Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property

SUBPART C: MEDICAL VENDOR HEARINGS

Section

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Applications

104.200	Definitions
104.202	Notice of Denial of An Application
104.204	Notice of Intent to Recover Money
104.206	Notice of Contested Paternity Hearing
104.207	Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement
104.208	Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action
104.210	Right to Hearing
104.211	Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
104.212	Prior Factual Determinations
104.213	Demand for Judicial Determination of the Existence of the Father and Child Relationship
104.215	Notice of Formal Conference
104.216	Formal Conference on Recovery of Money
104.217	Purpose of Formal Conference
104.220	Notice of Hearing
104.221	Issues at Hearings
104.225	Legal Counsel
104.226	Appearance of Attorney or Other Representative
104.230	Notice, Service and Proof of Service
104.231	Form of Papers
104.235	Discovery
104.240	Conduct of Hearings
104.241	Amendments
104.242	Motions
104.243	Subpoenas
104.244	Burden of Proof
104.245	Witness at Hearings
104.246	Evidence at Hearings
104.247	Cross-Examination
104.248	Disqualification of Hearing Officers
104.249	Genetic Testing in Contested Paternity Hearings
104.250	Official Notice
104.255	Computer Generated Documents
104.260	Recommendation of Peer Review Committee
104.271	Time Limits for Hearings
104.272	Continuances and Extensions
104.273	Withholding of Payments During Pendency of Proceedings
104.274	Continuation of Payments During Pendency of Proceedings
104.277	Denial of Payments for Services During Pendency of Proceedings
104.280	Record of Hearings
104.285	Failure to Appear or Proceed
104.290	Recommended Decision
104.295	Director's Decision

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SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section

104.300

Authority

104.302

Definitions

104.304

Department Actions Against Nursing Homes Facilities

104.310

Certification

104.320

Joint Administrative Hearing

104.330

Facilities Certified Under Both Medicare and Medicaid

SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

104.400

Suspected Intentional Violation of the Program

104.410

Advance Notice of Administrative Disqualification Hearing

104.420

Postponement of Hearing

104.430

Administrative Disqualification Hearing Procedures

104.440

Failure to Appear

104.450

Participation While Awaiting a Hearing

104.460

Consolidation of Administrative Disqualification Hearing with Fair Hearing

104.470

Administrative Disqualification Hearing Decision and Notice of Decision

104.480

Appeal Procedure

SUBPART F: INCORPORATION BY REFERENCE

Section

104.800

Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 3 Ill. Reg. 33, p. 57, effective August 17, 1978; peremptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; peremptory amendment at 5 Ill. Reg. 1107, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective

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March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 10268, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15521, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days.

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section 104.100 Support Order, Responsible Relative and Joint Payee Petitions
EMERGENCY

Sections 104.101 through 104.104 apply to all petitions of responsible relatives and clients for release from or modification of Administrative Support Orders and to all petitions of responsible relatives to contest determinations of the amount of past-due support or of the share of jointly-owned funds (see 89 Ill. Adm. Code 160.70), or to contest withholding, or to modify, suspend, terminate, or correct terms contained in administrative income withholding notices (see 89 Ill. Adm. Code 160.60(d)(6)); except that Section 104.106 shall apply to all petitions of joint owners of personal property and accounts are subject to levy under 89 Ill. Adm. Code 160.70(g)(2).

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days)

Section 104.102 Conduct of Administrative Support Hearings
EMERGENCY

a) Hearing De Novo

1) The hearing shall be de novo and the Department's determination of liability of non-liability pursuant thereto shall be independent of the prior determination of liability.

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- 2) In Title IV-D cases, the hearing shall only consider such matters as are relevant for a determination of the duty and financial ability to support under 89 Ill. Adm. Code 160.60 and 160.65.

b) Rules Governing Hearing

- 1) Hearings on petitions for release from or modification of the Administrative Support Order shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the responsible relative or Title IV-D client who petitions and except as set out in subsection (b)(2) below.

- 2) In Title IV-D cases, the following additional rules shall govern:
- A) A request for appeal must be filed with the regional or central office of the Bureau of Child Support Enforcement at the address furnished in the administrative support order.
- B) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.

- C) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under appeal by Title IV-D clients and responsible relatives.

- D) In the event of cross appeals, if the client is an Illinois resident, the hearing shall be held in the client's county of residence. Otherwise, if the appellant is an Illinois resident, the hearing shall be conducted in the appellant's county of residence. If the appellant is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the appellant nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the appellant, the client, and the Division of Child Support Enforcement. If a party is outside the State, he may, in a manner consistent with Section 11-8.2 of the Public Aid Code [305 ILCS 5/11-8.2], present his case through depositions and witnesses. In addition, a party may request to participate in the hearing by telephone, at his own expense.

- E) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)

- F) In addition to the appellant, the Division Bureau of Child Support Enforcement or Title IV-D client may request and receive a continuance for good cause shown (for example, illness or other circumstance which prevent a party from continuing in the normal course of the hearing).

- G) A decision on appeal shall be given to the IV-D client and responsible relative within 60 days after the Department's

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receipt of the appeal unless additional time is required for a proper decision due to the complexity or unavailability of relevant evidence, and the IV-D client and responsible relative will be notified of the length of the extension.

- c) A hearing to vacate registration or to modify the administrative income withholding notice of the Department shall consider only matters which would be available to the responsible relative as defenses in a civil action in Illinois to enforce a foreign money judgment (such as, payment, partial payment, or identification of the party against whom the judgment was entered). If the responsible relative shows the Department that an appeal from the registered support order is pending or will be taken in the court or administrative body of the jurisdiction which originally entered the order, or that a stay of execution has been granted, the Department shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the stay order is vacated.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective September 1, 1999, for a maximum of 150 days)

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Section 104.103 Conduct of Hearings to Contest the Determination of Past-Due Support or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments Funds

EMERGENCY

- a) Hearings on petitions to contest the determination of the amount of past-due support or of the share of jointly-owned federal or State income tax refunds or other joint federal or State payments funds shall be governed by Section 104.102, except that subsections (a) and (c) shall not apply, and the following terms as used therein are redefined:

- 1) "administrative support order" shall mean determinations of past-due support or of share of jointly-owned federal or State income tax refunds or other joint federal or State payments funds
- 2) "liability" shall mean past-due support or share of jointly-owned federal or State income tax refunds or other joint federal or State payments funds.

- 3) "responsible relative" shall also mean joint payee.

- b) Upon receipt of a hearing request from a responsible relative or joint payee concerning:

- 1) an advance notice of intercept, the Department shall, if the request concerns a joint federal or State income tax refund or other joint federal or State state payment, inform the responsible relative or joint payee of the steps necessary for the joint payee to secure his proper share of the refund or payment, as stated in the advance notice.
- 2) an amount already intercepted, the Department shall refer the

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responsible relative or joint payee to the Internal Revenue Service, if the request concerns a joint federal income tax refund.

- c) Within 45 days after the receipt of a notification from a state intercepting a federal income tax refund that the responsible relative has requested an administrative review in this State, the Department shall complete the procedures set forth in subsection (a) above. The Department shall notify the submitting state promptly of the decision and notify the Department of Health and Human Services of the deletion of the amount referred for intercept.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. **11734**, effective September 1, 1999, for a maximum of 150 days)

Section 104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property EMERGENCY

- a) Hearings on joint owner's petition to contest the lien or levy of jointly-owned personal property, including accounts held in financial institutions, shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the joint owner who petitions, and except as set forth below.

- b) A joint owner's petition to consent lien or levy of jointly-owned personal property must be filed with the regional or central office of the Division of Child Support Enforcement at the address shown in the notice of lien or levy.

- c) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.

- d) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues involving joint owner petition's to contest lien or levy of jointly-owned personal property. If the joint owner is an Illinois resident, the hearing shall be conducted in the joint owner's county of residence. If the joint owner is not an Illinois resident, but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the joint owner nor the client is an Illinois resident, the hearing shall be conducted in the responsible relative's county of residence. If the joint owner, the client and the responsible relative are not residents of Illinois, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the joint owner, the client, the responsible relative and the Division of Child Support Enforcement. If a party is outside the State, he or she may, in a manner consistent with Section 11-8.2 of the Public Aid Code, present his or her case through depositions and witnesses. In addition, a party may request to

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- f) participate in a hearing by telephone, at his or her expense. Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)

- g) In addition to the joint owner, the Division of Child Support Enforcement, the client or the responsible relative may request and receive a continuance for good cause shown (for example, illness or other circumstance that prevents a party from continuing in the normal course of the hearing).

- h) The burden is on the joint owner to prove his or her share of the personal property or account through production of documentary evidence. Documentary evidence of the joint owner's share may include, but shall not be limited to, the following:

- 1) bank statements;
- 2) bank signature cards;
- 3) canceled checks or facsimiles of checks deposited into or drawn on the account;
- 4) account numbers of accounts being held in financial institutions;
- 5) title to the personal property;
- 6) loan repayment coupons or other loan documents;
- 7) receipt from purchase of the personal property; and
- 8) payroll records.

- i) A hearing decision shall be given to the joint owner, the IV-D client and the responsible relative within 60 days after the Department's receipt of the request for hearing unless additional time is required for a proper decision due to the complexity or unavailability of relevant evidence, and the joint owner, the IV-D client and the responsible relative will be notified of the length of the extension.

(Source: Added by emergency rulemaking at 23 Ill. Reg. **11734**, effective September 1, 1999, for a maximum of 150 days)

ILLINOIS DEPARTMENT OF LABOR

NOTICE OF PUBLIC HEARING

The Illinois Department of Labor will hold two public fact finding hearings to determine if the existing rules on concession go-karts are compatible with the advances in technology, design, track surfaces or other issues related to rider safety.

1) Heading of the Part: Carnival and Amusement Rides Safety Act

2) Code Citation: 56 Ill. Adm. Code 6000

3) Date, Time and Location of Public Hearings:

October 26, 1999 October 27, 1999
10 a.m., Tuesday 10 a.m., Wednesday
Illinois Dept. of Labor Illinois Dept. of Labor
160 N. LaSalle #1 W. Old State Capitol Plaza
Suite C-1300 Room 300
Chicago, IL 60601 Springfield, IL 62701

4) Other Pertinent Information:

The Carnival-Amusement Safety Board has asked the Department to seek public comments on the rules governing go-karts, dune buggies, and all-terrain vehicles subject to regulation under the Carnival and Amusement Rides Safety Act, 430 ILCS 85 and Section 6000.300 of the rules. The Board believes that the existing rules should be evaluated, point by point, to determine if changes should be made to reflect advances in technology, design, track surfaces or other issues that may be pertinent to safety.

Time constraints may be imposed on oral testimony at the time of the hearing.

Written comments will be accepted until November 8, 1999. Telephone comments will not be accepted.

5) Name and Address of Agency Contact Person:

Carl Kimble, Chief Inspector
Illinois Department of Labor
#1 W. Old State Capitol Plaza, Room 300
Springfield, Ill 62701
217-782-9347

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Register Citation to Notice of Proposed Rules: Rules have not yet been proposed. Through the public hearing process, the Department is seeking public comment prior to the initiation of the rulemaking process.

4) Date, Time and Location of Public Hearing:

October 22, 1999
9:00 A.M. to Noon
James R. Thompson Center
Room: 2-025
Chicago, Illinois

5) Other Pertinent Information:

This public hearing is being scheduled to elicit public input. The Department plans on drafting in the near future a rulemaking setting forth the application of Section 304(d) of the Illinois Income Tax Act (ITIA; 35 ILCS 5/304(d)) with regard to business income derived from furnishing transportation services. Section 304(d) of the ITIA provides that business income derived from furnishing transportation services shall be apportioned to Illinois by multiplying such income by the ratio of the revenue miles of the person in Illinois over the revenue miles of the person everywhere. A revenue mile is defined as the transportation of 1 passenger or 1 net ton of freight the distance of 1 mile for a consideration. The rulemaking would affect the manner of apportionment of business income derived from furnishing transportation services. Among other options, the Department may consider a rule requiring the exclusion from the Section 304(d) apportionment fraction of miles associated with transportation services where such services neither commence nor terminate in Illinois. For example, such a rule would exclude from the Section 304(d) apportionment fraction "fly-over miles," which are miles accrued during flights that neither depart from nor land in Illinois, but merely fly over the State en route.

Northwest Airlines v. Department of Revenue, 295 Ill. App. 3d 889, 632 N.E.2d 1264 (1st. Dist. 1996), held that Illinois fly-over miles may not be considered revenue miles of the person in Illinois under ITIA Section 304(d). Prior to this case, the Department required that such miles be included in the numerator of the taxpayer's apportionment formula. Similarly, in *Erieview Cartage, Inc. v. Department of Revenue*, 278 Ill. App. 3d 1123, 699 N.E.2d 602 (1st. Dist. 1996), the court determined that income attributable to shipments that neither originate nor terminate in Illinois may not be considered derived from furnishing transportation services in Illinois.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

In addition, the Department may consider rules relating to the application of ILTA Section 304(d) to taxpayers engaged in package delivery services. The ILTA requires taxpayers to apportion business income derived from furnishing such services applying the Section 304(d) revenue miles formula.

The rulemaking on this subject will appear in a future edition of the Illinois Register. The public hearing will be for the sole purpose of gathering public comment.

- 6) Name and Address of Agency Contact Person: Questions regarding the public hearing on the proposed rulemaking may be directed to:

Brian L. Stocker, Staff Attorney
Legal Services Division, 5-500
Illinois Department of Revenue
101 W. Jefferson
Springfield, IL 62794
(217) 782-7055
bstocker@revenue.state.il.us

Persons interested in presenting testimony are advised that the Department will adhere to the following procedures in the conduct of the hearing:

1. Each person presenting oral testimony shall provide to the hearing officer a written (preferably typed) copy of such testimony at the time the oral testimony is presented. No oral testimony will be accepted without a written copy of the testimony being provided.
2. Each person presenting oral testimony will be limited to fifteen minutes for presentation of such testimony.
3. No person will be recognized to speak for a second time until all persons wishing to testify have done so.
4. All testimony shall conclude at the specified time except that an individual presenting testimony at that time shall be allowed to complete the presentation.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 1999 REGULATORY AGENDA

- 1) Part(s) (Heading and Code Citation): Pay Plan, 80 Ill. Adm. Code 310.230
- 1) Rulemaking(s):

- A) Description: Projected amendments to the Department of Central Management Services' Pay Plan will include revisions to the following sections:

Section 310.230, Part-time Daily or Hourly Special Services Rate, this section is being reviewed to update and delete titles that are not presently being utilized under the special services rate.

In Section 310.280, Designated Rate, the revisions to this section will reflect changes in salaries, the addition of new positions and deletion of positions no longer being utilized under this section as approved by the Governor.

An amendment will be filed to the NR-916 (Department of Natural Resources, Teamsters) Collective Bargaining Unit to reflect the new maximum salary rates for July 1, 1999.

We anticipate that there will be a number of changes to the various collective bargaining tables to set forth new classes and revised salary ranges for certain classifications which are not yet identified.

Other amendments will likely be necessary although this cannot be projected at this time.

- B) Statutory Authority: Authorized by Section 8a(2) of the Personnel Code [20 ILCS 415/6 and 8a].

- C) Schedule of date(s) for hearings, meetings, or other opportunities for public participation: Specific criticisms, suggestions and/or comments can be forwarded to the Department of Central Management Services in writing by interested persons during the First Notice Period of the Pay Plan amendments.

- D) Date(s) agency anticipates First Notice(s): A proposal to amend Section 310.230, Part-time Daily or Hourly Special Services Rate, updating and deleting titles that are not presently being utilized under the special services rate will be filed after review this Summer, 1999.

A proposal to amend Section 310.280, Designated Rate, is anticipated to be filed in Late Summer, 1999.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JULY 1999 REGULATORY AGENDA

A proposed amendment reflecting the new July 1, 1999 maximum rates for the NR-916 Collective Bargaining unit will be filed in the Summer, 1999.

The other projected amendments are anticipated to be filed at a later date.

- E) Affect on small businesses, small municipalities or not for profit corporations: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code under the Governor. They do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.

F) Agency contact person for information:

Name: Mr. Michael Murphy
Address: Department of Central
Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601

- G) Related rulemakings and other pertinent information: Other amendments may be necessary based on emergent issues regarding State employee salary rates and policies.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 31, 1999 through September 6, 1999 and have been scheduled for review by the Committee at its September 14, 1999 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
10/14/99	Department of Human Services, Audit Requirements of DHS (89 Ill Adm Code 507)	7/9/99 23 Ill Reg 7705	9/14/99
10/14/99	Department of Financial Institutions, Illinois Credit Union Act (38 Ill Adm Code 190)	6/25/99 23 Ill Reg 7183	9/14/99

Rules acted upon during the calendar quarter from Issue 30 through Issue 42 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jontake@ccgate.sos.state.il.us (Internet address).

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